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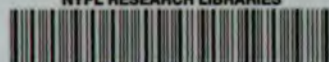
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Very truly A. G. Brown

# SPEECHES, MESSAGES,

AND

## OTHER WRITINGS

OF THE

*imitation*  
HON. ALBERT G. BROWN,

A SENATOR IN CONGRESS FROM THE STATE OF MISSISSIPPI.

EDITED BY

M. W. CLUSKEY,

POST-MASTER TO THE HOUSE OF REPRESENTATIVES OF THE UNITED STATES.

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M. W. CLUSKEY,

In the Clerk's Office of the District Court of the United States for the District of Columbia.

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## EDITOR'S PREFACE.

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THE publishers of this compilation, with commendable enterprise, having determined to reproduce in an accessible form, the speeches and writings of such of the public men of the country as are of sufficient merit to justify republication, present this as the initial volume of the series which they hope in a reasonable time to introduce to the public. They have honored the compiler with the position of Editor of this new work. He hopes that the manner in which he has thus far discharged the trust, will justify the public in commending the selection of him for that duty. He congratulates himself that the speeches and writings of Albert G. Brown should form the beginning of his labor in this connexion. Having been a constant observer and admirer of the long and consistent public career of Governor Brown, it afforded him a pleasure to be engaged in bringing before the country a compilation of his able and instructive political speeches and writings. The reflection that the subject of a work of this kind possesses true merit, naturally tends to ease the labor of preparing and



bringing it forth. The contents of this compilation constitute a monument of the mind of him whose productions it contains. It cannot fail to insure a ready endorsement by the country of the enterprise of the publishers.

To the people of Mississippi, who have long honored Albert G. Brown, and whom he has so amply repaid by the faithful discharge of every public trust confided to him, the Editor would respectfully dedicate this volume.

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## BIOGRAPHICAL SKETCH.\*

ALBERT G. BROWN was born in Chester District, S. C., May 31, 1813, and is the second son of Joseph Brown, a respectable planter, who settled in what is now Copiah county, in the state of Mississippi, in the winter of 1823. The country was then a wilderness. The white man had not yet taken possession of the "new purchase," and the fire of the red man was at that time smoking, so recent had been his exit from the country.

In indigent circumstances, Joseph Brown had sought this forest home, contented to brave its hardships, in the hope of rearing his children to better fortune than his own. His two sons, Edwin and Albert, then small boys, performed such labor in opening the farm as they were able to endure. Albert, then ten years of age, was a sort of man of all work. It was his business to mind the stock, work a little on the farm, go to mill on Saturday, and attend school occasionally when there was nothing else to do.

If it should be thought by any that this was an indifferent method of opening the way to the boy's fortune, it must be borne in mind that the family was surrounded by the most trying circumstances, and the future promised nothing but what industry, honesty, and the most rigid economy might yield. Pitching his tent in the unbroken woods, not a tree missing from the dense forest, far from the settled parts of the country, without provisions, and almost without money, and not an acquaintance or a friend on whom he could call for help—it will be readily seen that the whole business and cares of the elder Mr. Brown's life were founded on the single word "bread."

After the first two or three years, thanks to industry, economy, and a fertile soil, hard fortune began to relax her iron grasp. Well-stored granaries, sleek herds of cattle, fat hogs and horses, attested the thrift which followed on the heels of retreating poverty. About this time attention was given to Albert's strong inclination for books, and he was kept pretty steadily at such inferior neighborhood schools as may be found in a frontier country—that is, barring the interruptions which

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\* This biographical sketch was published in the Democratic Review in 1849, with the exception of the record of his life since that time, it being from the pen of the editor of this compilation.

going to mill and working on the farm in times of great need would occasionally interpose.

In February, 1829, having made tolerable proficiency in the rudiments of an English education, and given evidence of sprightliness, his father consented, with as much readiness as was consistent with his limited means, to send him to Mississippi College, then a respectable school, under the management of that excellent man and pure Christian, the Rev. D. Comfort. Here he remained three years, endearing himself to a large circle of class and school mates, almost all of whom have since been his fastest and truest friends, and winning the confidence and affection of his venerable teacher, who still survives to witness the success of his pupil, and to enjoy the happy consciousness that his parental cares and sage counsel have lifted a poor boy to distinction, and placed him on the highway to fame and fortune. The writer has often heard the subject of this notice confess with deep emotion his gratitude to his old preceptor, and declare that to him he owed, in a great measure, whatever of success had attended him through life. From Mr. Comfort's school, young Brown was transferred, in the winter of 1832, to Jefferson College, where he remained six months—when, becoming dissatisfied with the institution, he left it and went home, under a partial promise from his father to send him for a regular collegiate course to Princeton or Yale. But, after counting the cost, and making allowance for the care of a then rather numerous family of sons and daughters, Mr. Brown (the father) concluded that he should be unable to send his son to college. Thus closed the school-boy days of Albert G. Brown. With an education very imperfect, suddenly disappointed in his cherished hope of prosecuting his studies in one of the old schools, he was, at the early age of nineteen years, left to select his future course. This was a critical period, and few young men thus suddenly crossed and thrown back upon their own resources would have behaved better. Mr. Brown, not entirely desponding, but greatly chagrined at being thus cut off with an education scarcely commenced, went of his own choice to the county village, Gallatin, entered into an arrangement with a lawyer of high standing (E. G. Peyton, Esq.), and the next day began the study of the law. In less than a year, he was examined before the Supreme Court of Mississippi, and admitted to the bar, with appropriate evidences of his qualifications. Though closely pursuing his studies, Mr. Brown found ample time in his hours of recreation to extend his acquaintance among the people, and by his bland and courteous deportment to lay deep and solid the foundation of that singular personal popularity, which no change of parties or political convulsion has ever shaken.

During his six months' stay at Jefferson College, previously mentioned, he underwent a course of military training; and, recommended by this circumstance, the people of his county attested their confidence

in him by electing him a colonel of militia before he was nineteen years old. This was the first office he ever held. The next year he was chosen a brigadier-general of militia.

Mr. Brown was scarcely twenty years of age when he applied for admission to the bar, and the writer has heard him speak of his extreme anxiety, lest the usual question (where there can be any doubt)—“are you twenty-one?” should be propounded. This was the only question to which he could not have given a satisfactory answer, and by singular good fortune (for him) it was not asked.

He began the practice of his profession in the autumn of 1833, and succeeded at once. He took rank with the oldest and most distinguished professional gentlemen at the bar where he practised. His business steadily and rapidly increased to 1839, when he withdrew from the profession to accept a seat in Congress, in the enjoyment of the fullest and most lucrative practice, being professionally employed in nearly five hundred causes during the year in which he retired from the bar.

In October, 1835, Mr. Brown (or General Brown, by which title he was then better known) was married to Elizabeth Frances Taliaferro, a Virginia lady of accomplishments, of great personal worth, and of excellent family. She survived the marriage only about five months. Her family have subsequently been among the most steadfast of General Brown's numerous friends and supporters.

In this year, 1835, began the political career of General Brown. At the November election, he was chosen a representative to the State Legislature, to fill the first vacancy occurring after he was twenty-one years old. It was an interesting period in the legislation of Mississippi, and there was great competition for the seats. In 1835, Copiah, the county of Mr. Brown's residence, was entitled to three representatives, and he was one of nine candidates, nearly all Democrats, or, as they were called, “Jackson men.” Great pains were taken to defeat him, as the aspiring and ambitious thought he would be in their way on future occasions. Some maintained that he was too young, but the great bulk of the opposition rested upon an alleged unsoundness in his political views. For this charge there was no better foundation than that General Brown's father was a Whig, or, as he was not ashamed to call himself, a Federalist of the old school. The election transpired, and General Brown was successful, being the second successful candidate, and leading his next highest competitor about seventy-five votes. His representative duties were discharged with marked fidelity, and so entirely to the satisfaction of his constituents, that at the next election he was returned without a struggle, the opposition being only nominal. He took an active and leading part in the debates, and in all the business of legislation; and before the expiration of his first term, the speakership having been vacated by the indisposition of the presiding officer of the house, he was chosen speaker *pro tem.*, by acclamation. It is to be



regretted that the debates in the Legislature of Mississippi at that period were not preserved, as they were intrinsically valuable, and, if now in existence, would throw a flood of light on the political history of the state. A record of these debates would exhibit, in relief, admirable and bold, the political forecast of General Brown. Though almost the youngest member of the house, he counselled his more aged compeers in many an earnest speech against that system of banking which has since rendered the financial policy of Mississippi so remarkable throughout the world.

General Brown took his seat in the Legislature under his second election in January, 1838. The banking system had already given way, and was tottering to its fall. Just then, Governor Lynch, the first and last Whig governor of Mississippi, recommended the Legislature "to express its opinion on the subject of a National Bank," and entered himself into an elaborate argument in favor of that institution. This recommendation was referred to a committee, of which General Brown was chairman, and his report contains many strong views in opposition to the bank, both on the ground of unconstitutionality and of its inexpediency. We have only room for one or two short extracts, as follows:—

"Chief Justice Marshall, in delivering the opinion of the court, in the celebrated case of *McCullough* against the state of Maryland, lays down the principle in broad terms, 'That when the law is not prohibited, and is intended to carry into effect any power intrusted to the government, Congress is to be the exclusive judge of the degree of its necessity.' Suppose this to be the settled doctrine upon this subject, the abolition of slavery is not expressly prohibited in the District of Columbia, nor any of the states where it exists, and among the enumerated powers of the general government, is one authorizing it to provide for the common defence and general welfare. Suppose then that the Abolitionists of the North, whose strength, disguise it as you will, is increasing with frightful rapidity, should, under this rule of construction adopted by jurists, and sanctioned by politicians, insist that in all cases it was their duty to provide for the 'general welfare,' in obedience to the power given them, and that to carry into effect this specific grant of power, if it was 'necessary' to abolish slavery in the District of Columbia, and the states where it exists—we ask, whether it might not be competent for them to do so, or how this case is distinguished from the one immediately under consideration, to wit, the power to charter a National Bank, because it is a measure 'necessary' for the 'general welfare;' and if the Supreme Court thought it incompetent for them to inquire into the degree of necessity involved in the first case, could they undertake to make the inquiry in the latter? We think not. Again, suppose the nation, in the present enfeebled state of its treasury, be suddenly involved in a conflict with Great Britain, or some other foreign power, Congress is called upon to furnish money to carry on the war; this she refuses to do, by levying a direct tax which shall bear equally upon all portions of the United States,—but incorporates a company, and invests them with exclusive power to navigate the Mississippi river for fifty years, in consideration that the company will pay the Government a bonus of twenty-five millions of money. The power to have such action on the part of the general government is well questioned; it is not, however, expressly prohibited, and Congress asserts that it is 'necessary' in providing for the 'common defence and general welfare' to charter said company, and invest them

with such powers, for the consideration of the twenty-five million bonus; and the Supreme Court, if appealed to, says, Congress is to be the judge of the necessity, and we will not interfere.

"We ask if such rules of construction, with such arguments to sustain them, may not, indeed if they are not likely to lead to the most disastrous consequences—consequences portentous of great evil to the rights of the states, and threatening at once the stability of our excellent forms of government? Your committee are of opinion, that this clause of the Constitution furnishes no warrant for the establishment of a National Bank."

The report continued with various other views of the constitutional question, chiefly in answer to the arguments urged by the friends of the bank. It set forth many and strong arguments against the expediency of the bank, and concluded as follows:—

"If, then, it does not render the labor of the citizens more valuable, we are at a loss to discern the great advantages which the working man is to derive from its creation. But we are satisfied of its effects, when the redundancy of paper money which it circulates has swelled in a twofold relation the value of every horse, plough, harrow, and other articles of husbandry or family consumption which the laborer buys. Then we find it is an institution which, instead of lightening the poor man's toils, in fact levies a heavy contribution upon the wages of his industry. It is an institution which makes the weak weaker, and the potent more powerful; ever filching from the poor man's hand to replenish the rich man's purse. Your committee have mistaken the duties of legislators, if it is their province to guard over the peculiar interest of the speculator and gambler, who live by the patronage of banks, to the detriment and ruin of the honest yeomen, whose toils have raised our happy republic from a few dependent colonies, to the highest pinnacle of national fame, causing Indian wigwams to give place to splendid cities, and the whole wilderness to bloom and blossom as the rose. It is well said that 'the laborer is worthy of his hire;' and the illustrious Burke never uttered a sentiment which better deserved to be embalmed in the hearts of freemen, than that the workingman should feel the wages of his labor in his pocket, and hear it jingle.

"In conclusion, we recommend, as an expression of this body on the subject of a National Bank, the adoption of the following resolutions:—

"1. *Resolved*, That the government of the United States has no constitutional right to charter a National Bank.

"2. *Resolved*, That it is inexpedient and improper to charter such an institution at this time, even if Congress had the constitutional right to do so."

This report elicited the warmest commendation on the part of the anti-bank press and party, whilst all the bank interests assailed it with denunciation, attempts at ridicule, and occasionally with something like argument. It was extensively published at the time, and is believed to have had a salutary influence in awakening public inquiry on the subject in Mississippi.

In the fall of the same year (1838), General Brown being absent from the state, the bank party took advantage of a general panic in the public mind, growing out of the existing pecuniary embarrassments in Mississippi, to get up written instructions requiring him to vote for a bank United States Senator, or resign. He chose the latter alternative. Although, in a moment of panic, seven hundred and fifty out of

nine hundred voters had signed these instructions, General Brown did not hesitate to present himself as a candidate to fill the vacancy occasioned by his own resignation. He issued a short address, from which we present an extract.

"To stand in the way of a free disposition of the elective franchise by the people, in the selection of their representatives, I should conceive the greatest moral and political disgrace which could befall a republican citizen. I am a Democrat in practice as in principle, and it is one of the first articles in the *Koran* of that political sect, that the people should be represented by whom they will. If my services are no longer desired, I should cease to feel contented in the seat which has been assigned me by your preference. And whenever you shall determine at the ballot-box to dismiss me from your service, I shall retire with a sense of pleasure, equalled only by the satisfaction which I experienced in entering upon it, and surpassed only by the gladness which I now feel, in having performed at all times as I best could the trusts confided to my care. I have a right to ask, in abdicating my seat in the legislature, that the articles of my condemnation may not be signed and sealed by the people, and handed over to be ratified, confirmed, and executed by my political enemies, before I am heard in my own defence. All I ask, is a free conference with the people. *Come set ye down, and let us reason together.*"

He at once entered upon a close and searching canvass of the county. The result was, his triumphal return to the Legislature by a majority of one hundred and fifty odd votes over his bank competitor. The opposition was confounded. They had counted on success as a matter of course. The anti-bank friends of General Brown in his own county, and throughout the state, were of course greatly elated at this signal triumph. The Democratic State Convention assembled soon after, and although not then twenty-five years old, he was unanimously nominated for Congress. The chances for success were anything but flattering. The Whigs had swept the state at the election previous, and the bank interest in Mississippi was in the zenith of its power. Not dismayed by these unfavorable circumstances, he entered at once upon an active and vigorous canvass of the whole state; and before the election in November, 1839, he and his colleague, Mr. Jacob Thompson, had thoroughly canvassed every nook and corner of the state. Though met at every step by the most unscrupulous opposition; assailed with vituperation and slander—with denunciation, personal and political, General Brown and his colleague moved steadily forward, calling the people together, challenging their opponents to meet them in debate, and carrying conviction to the mind of their auditors. The result did ample justice to their zeal and fidelity. The state was redeemed; bank thralldom was ended. The whole Democratic ticket was elected by an average majority of three thousand; General Brown leading the Congressional ticket by several hundred votes.

He took his seat in the United States House of Representatives, December, 1839, being *then* a little over twenty-five years of age. His speeches while in that position compare favorably with those generally

made in the lower House of Congress. He entered boldly into the defence of the Independent Treasury, and the other leading measures of the administration. His opposition to the bank, and to Whig measures generally, was maintained with his accustomed zeal and ability. If we had space, we should like to make extracts from these speeches, and especially from one in which the policy of the administration in power at that time is defended and whiggery reviewed. To those desirous of seeing with how much zeal and ability General Brown defended his favorite measures at that term, we commend this speech. It concludes with a glowing tribute to the moral and intellectual worth of Mr. Calhoun, a perusal of which cannot be otherwise than gratifying to the numerous friends of that distinguished statesman and patriot.

After the adjournment of Congress in 1840, General Brown went home, and entered immediately, and with singular activity, into the presidential canvass. He traversed the state, defending Mr. Van Buren, as the regular nominee, against the growing distrust of his people, and appealing to them to stand by the measures of his administration. Many of his speeches at this time were remarkable specimens of stump oratory; and though they failed to carry the state under the weight of Mr. Van Buren's name, they did not fail to add greatly to General Brown's character as a speaker.

On the 12th of January, 1841, General Brown was a second time married. The lady, Miss Roberta E. Young, the youngest daughter of the late General Robert Young, of Alexandria, Va., had been known in society at Washington as one of the most fascinating and intelligent ladies of the gay metropolis. She has directed with great dignity and propriety the domestic affairs of her husband's household, and especially during his gubernatorial term. She is the mother of two sons.

At the close of his term in 1841, General Brown was again put in nomination by his party friends. But having taken upon himself the cares of a family, and finding his pecuniary interests seriously involved from long neglect, he was constrained to decline. This he did, in the full confidence that his party, though temporarily defeated, were sure to rise at another election. He was not disappointed. The Democrats of Mississippi, at the November election, 1841, nobly redeemed their state. At this election General Brown consented to stand a poll for a judgeship of the Circuit Court; and it is among the remarkable evidences of his singular popularity, that he was voted for by men of every shade of opinion—political, social, and religious. He was barely eligible to the office on account of his youth; but he was elected, beating his able and distinguished competitor, Judge Willis, the former incumbent of the same office, nearly three votes to one. He served in this position nearly two years, when he accepted a nomination from his political friends for governor, and thereupon resigned. Judge Willis was chosen his successor. Judge Brown entered the canvass for the governorship early in the

summer of 1843, being then just thirty years old, and consequently barely eligible under the constitution of Mississippi. The opposition was fierce and powerful. In addition to the whole strength of the Whig party, Judge Brown had to encounter the stern opposition of a large number of the most talented and influential men of his own party. The ostensible reason for this opposition was a difference of opinion in regard to the state's liability to pay a class of bonds issued in her name, and known as the "Union Bank Bonds." Judge Brown maintained that the bonds had been issued in violation of the state constitution, and that the people were therefore under no sort of obligation to pay them *by taxation*. In this contest he had two opponents—Mr. Clayton, the regular Whig nominee, and Colonel Williams, "the independent bond-paying Democrat." Both were gentlemen of high character. Mr. Clayton, a lawyer of distinction, belongs to the Georgia family of that name; and Colonel Williams was an Ex United States Senator from Mississippi. For many weeks after the canvass opened, Judge Brown's chances seemed desperate. Almost single handed, he encountered the whole opposition, Whigs and Democrats. How he bore himself, may be judged of from the fact that his competitors were *together* beaten by two thousand three hundred votes. He entered upon his new duties as governor, January 10, 1844. The bond question having been the principal topic of discussion in the canvass, Governor Brown availed himself of the privileges incident to his inauguration, to state succinctly his views on that subject. The reader may find it interesting to examine those views, which we here extract from the inaugural speech of the governor.

After some general remarks upon the value of the constitution, and the absolute necessity for its inviolable preservation, he continues:—

"I have been led into these reflections by the too common expression, that although the Constitution was manifestly violated in the issuance of the Union Bank bonds, yet, inasmuch as a *majority* of the people approved it at the time, therefore the *whole* people must submit to taxation to pay them: thus declaring that the will of the majority, and not the Constitution, shall be the measure of power, and virtually making one acknowledged wrong the pretext for committing a still more grievous wrong. But how, it may be asked, will the Constitution be violated in levying a tax to pay a debt, even though that debt was contracted in violation of the Constitution? It has been assumed that the taxing power resides with the Legislature, and that they may exercise it for any purpose within their discretion, not positively prohibited by the Constitution. This construction of the powers of the Legislature, is by far too comprehensive. Under it, the legislative department may tax *ad libitum*. No such authority, in my opinion, was ever conferred. The Legislature may rightfully tax the citizen to defray the economical expenses of the government, and to pay the debts of the state; but it would be going far beyond the authority delegated to them to levy taxes to pay the debts of any one, or all the corporations within the state. If the Union Bank bonds constituted a debt against the state, then would it be constitutional to tax the citizen to pay them; but that these bonds do not constitute such a debt, will, I think, be made sufficiently manifest by a candid review of their origin, and of that clause of the Constitution under which they could alone issue."

He then proceeded to state the facts connected with the creation of the bonds in a most clear and able manner, to show that the plainest provisions of the state constitution had been deliberately and wilfully violated. That the bonds, having no legal existence, are not a debt against the state, and that the Legislature, if it had the will, has no power to levy taxes for the payment of those bonds.

The administration of Governor Brown will be long remembered in Mississippi as one of the most fortunate which that state has ever had. With his first election ceased the "Union Bank bond" controversy, and he was left without hindrance to look after the other long-neglected and suffering interests of the state. He found the treasury bankrupt, and the officers and servants of the state paid in a kind of paper, known as "auditor's warrants," then at a depreciation of fifty to fifty-five cents on the dollar. He set himself earnestly at work to revive the drooping credit of the state, and had the satisfaction, at the end of two years, to see "auditor's warrants" at par with gold and silver; and, at the close of his second term, to leave a surplus of several hundred thousand dollars in the treasury.

Governor Brown zealously advocated the cause of education. His messages, and other papers, are interspersed with reflections, suggestions, and earnest appeals on this interesting subject. Several schools grew up under his auspices. The common school system was adopted on his earnest and repeated recommendations; but so shorn of its best proportions by the legislature as to be a mere caricature of the system recommended by him. He entered earnestly and zealously upon the task of establishing the State University. Under his direction the funds were secured, and by his advice the institution was put into operation. In every matter relating to the local interests or the honor of Mississippi, Governor Brown was a faithful guardian. So well satisfied were the people of this, and indeed with his whole administration, that at the end of his first term all opposition had ceased, and no one was found to enter the list against him for another election. His second term, like the first, was marked by an unceasing care for the local interests of the state which he governed. The feature in his administration, which distinguished it perhaps as much as any other, was its constant fidelity to the payment of the "Planters' Bank bonds." In his first inaugural speech, after disposing of the Union Bank bond question, he continues:—

"Wherever there exists a debt against the state, contracted in good faith and with a proper regard to the constitution, it *must* be discharged to the last mill. Of this character do I regard the bonds issued on account of the Planters' Bank; and come what may, the state can never shrink from the payment of them. Let prompt and efficient action be taken for their settlement. A speedy liquidation of them will afford what every good citizen is anxious to see—a fitting opportunity to manifest to the world that, in rejecting the Union Bank bonds, we are actuated by no mean or sordid principles of dollars and cents, but by a more elevated impulse—that of adhering faithfully to our written constitution."

And in his message to the Legislature, he reviewed the whole subject of these bonds, showing, that as they legally existed, the state would never, for an instant, falter in the payment, and advised by all means their prompt discharge.

And again, in 1848, in alluding to the same subject, he remarked:—

"In estimating the indebtedness of the state, the bonds issued on account of the 'planters' Bank have been included. My last general message conveyed to the Legislature and the country my views as regards the state's liability to pay these bonds. These opinions have undergone no material change, but a reiteration of them is uncalled for, and would be unprofitable at this time. Having long since settled in my own mind that the state is bound, by every obligation that the constitution and the laws can impose, to pay the debt, it has only remained to devise some means acceptable to the people, and not too oppressive, by which it could be done. The whole subject has been calmly considered; and however it may be regarded by others, there is, to my mind, but one course to be pursued worthy the character of a great and growing state, and that is to raise the money by taxation, and discharge the debt as rapidly as possible. That course is respectfully but earnestly recommended.

Governor Brown's second term being about to expire, he accepted a unanimous nomination to run for Congress, in the 4th Congressional District; and although it was known that his term as governor would not end until near the middle of January, and that he would not in consequence take his seat until the first two months of the session had passed, he was elected without opposition. He took his place in the House of Representatives in the latter part of January, 1849, in the midst of the excitement growing out of the discussions on the Mexican war. In the course of two or three weeks, he spoke in review of the conduct of the administration, and generally in defence of his own country. Speaking for himself and his constituents, he said:—

"We believe the war to have been just and constitutional in its commencement; that it has been vigorously prosecuted thus far, for wise and proper ends; and that it should be so prosecuted until we have the amplest reparation for past wrongs, and the fullest security that our rights as a nation are to be respected in future. To this end, we are prepared to vote such number of troops, and such additional sums of money, as, in the judgment of the commander-in-chief, may be necessary to attain these objects."

In the course of a discussion on the President's proposition to tax tea and coffee, as a means of raising money to carry on the war, Governor Brown indulged in some severe but deserved criticisms on the conduct of the opposition, saying:—

"When, sir, did these gentlemen first learn to sympathize with the poor man? Was it at a time when they were taxing cotton cloth, leather, iron, coal, and salt? Was it, sir, when they were levying protective duties on these articles, all of which enter into the poor man's consumption? The gentleman from Vermont [Mr. Marsh] pours out the fulness of his sympathetic heart over the poor man's tax on tea and coffee, and then he bewails the downfall of *protection*. You, sir, sympathize with the

poor man's tax! you who would tax all the necessities of life to give protection to some overgrown manufacturer! Strange and incomprehensible logic, that we must tax the poor man's hat, his shoes, his shirt, his plough, his axe—everything, in short, which he consumes, for the benefit of the manufacturer! but your sympathetic hearts will not allow you tax his *tea* and *coffee* to support your government in time of war. You would send him shoeless, hatless, and shirtless, to cultivate his ground without implements, unless he pays tribute to the manufacturers; only give him tea that is not taxed, and you are satisfied. You would lay his diseased body on a pallet that is taxed; give him taxed medicine from a spoon that is taxed; you give him untaxed tea in a cup that is taxed; he dies, and you tax his winding sheet, and consign him to a grave that is dug with a spade that is taxed, and then insult his memory by saying that you gave him untaxed tea. Why, sir, if I thus outraged the poor man's common sense during life, insulted him in his last moments, and whined a hypocritical sympathy over his tomb when dead, I should expect his ghost to rise up in judgment against me.

"Other gentlemen may do as they please,—for me and my people, we go for our country. We write on our banner, 'millions for defence, but not one cent for tribute.' Tax our property, tax our supplies—ay, tax us millions on millions for the defence of our country's flag and our country's honor, and we will pay it; but if you ask us to pay one cent of tribute to your lordly manufacturers, we rise up in rebellion against you. Take our property for the defence of our national honor, but do not plunder us to make a rich man more rich."

At all times, and under all circumstances, Governor Brown has proven himself the steadfast friend of the toiling millions, opposing whatever tended to retard their prosperity, and advocating with energy every measure which promised to advance them intellectually or otherwise. In a debate on the subject of the public lands in the House, he said:—

"I am for disposing of the public lands freely. To the soldier who fights the battles of his country I would give a home, nor would I restrict him to very narrow limits. To every man who has no home, *I would give one*, and, so long as he and his descendants choose to occupy it, they should hold it against the world, *without charge of any kind*. The government owns more than nine hundred millions of acres of land, and yet thousands of her citizens, and some of them her bravest and best soldiers, are without homes. The dependence of the government and people should be mutual. If government relies on the people for defence in time of war—if she expects them to fight her battles and win 'empires' for her, the people should expect in return to be provided with homes; this reasonable expectation ought never to be disappointed.

"I have no objection to the government selling lands to those who are able to pay for it, at a moderate price; but I protest my disapprobation of national *land-jobbing*. The nation degrades her character when she comes down to the low occupation of exacting the hard-earned dollars of a poor citizen for a bit of land, purchased, it may have been, with the blood of that citizen's ancestors. To my mind, there is a national nobility in a republic's looking to the comfort, convenience, and happiness of its people; there is a national meanness in a republic selling a poor man's home to his rich neighbor, because that neighbor can pay a better price for it."

This and many similar extracts might be adduced to show his constant care for the interests of the masses and the great body of the people. But his whole life, public and private, attests his attachment to the laboring man, and his ceaseless care for his prosperity and happi-



ness. The writer once heard him asked, how it was that success had so constantly attended him. He replied, "I never forgot that I was one of the people." Ah! there is the secret—he never forgot that he was one of the people. As the man of all work on his father's farm, as the "mill boy," he was one of the people—as a member of the Legislature and of Congress, he was one of the people. Electing him judge did not change his character; and as governor, he was still one of the people. Faithful to all his pledges, frank in the expression of his opinion, open and decided in his course, tolerant towards his opponents, and cordial towards his friends, it is not surprising that he has been the idol of his state.

Governor Brown was re-elected to the 32d Congress. During this term the exciting questions of the admission of California, and that of territorial governments for the other territory acquired by the Mexican war, engaged the consideration of Congress, and led to the enactment of the compromise measures of 1850. Governor Brown occupied a prominent place among the debaters in the House during that portentous time, and was decisive in his opposition to the admission of California. He voted against it, and all of those measures, except the fugitive slave law.

Though Governor Brown desired to return to private life at the end of the 32d Congress, the condition of parties in Mississippi, growing out of the excitement which followed the enactment of the compromise measures of 1850, in which his representative action on those measures was involved, induced him to again become a candidate. He warmly espoused in his canvass the cause of the States Rights Democracy, and was the only member of the delegation in the House re-elected in the ensuing election. All the rest were candidates, but were defeated by what were then called Union Men. In the Mississippi state convention of that year, nearly every States Rights delegate in the body came from some portion of his district. This affords some idea of how deeply that cardinal doctrine of American politics is impressed upon his people.

During the 33d Congress, Governor Brown's career in the House was marked by that same argus scrutiny of the measures before that body, which had characterized his previous incumbency. A reference to his speeches, embraced in this volume, made during that Congress, will exhibit his strict concern with reference to everything affecting the public interests.

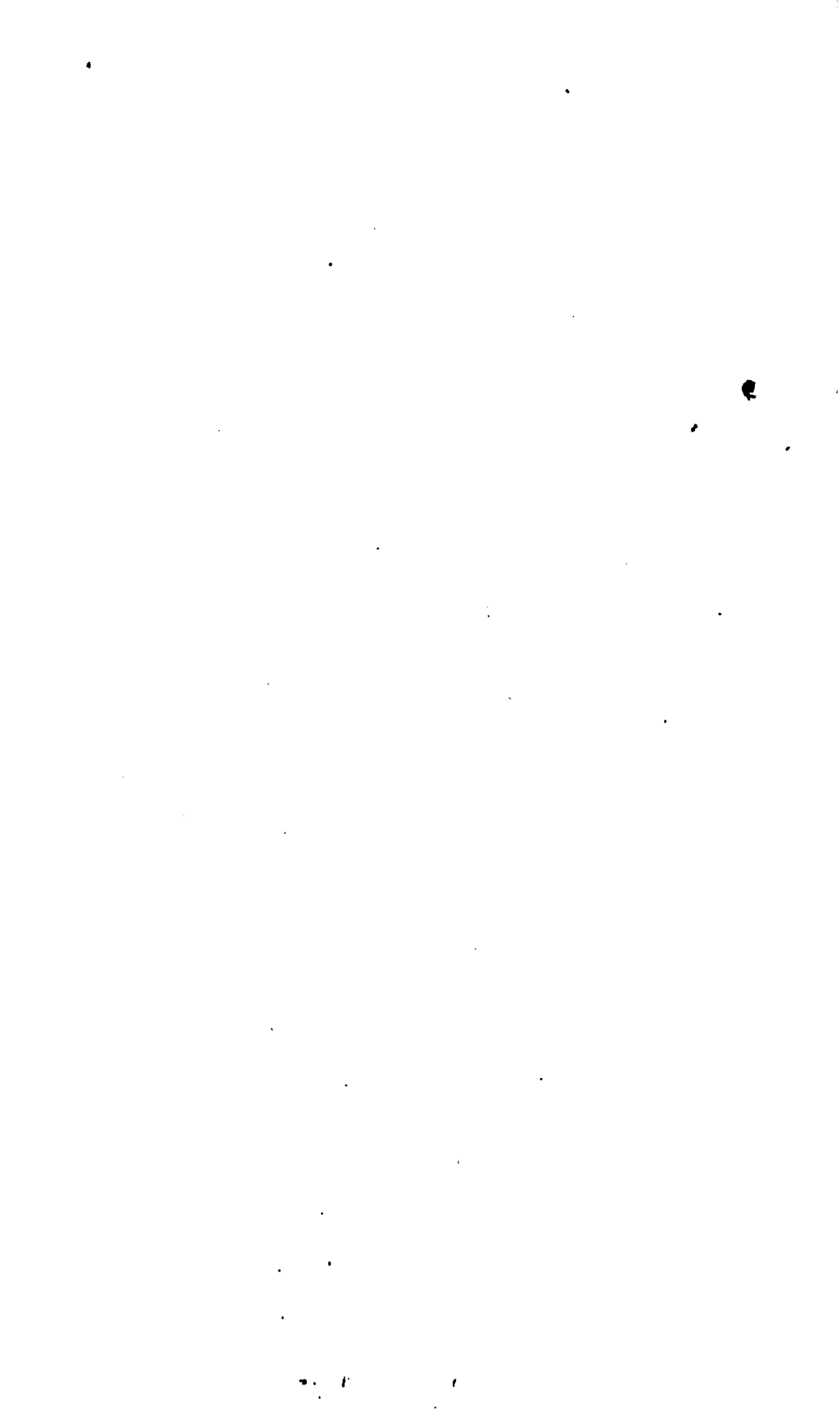
At the end of the 33d Congress, Governor Brown retired to private life, to resume the cares and duties of his profession. But the people called him immediately back to the public service.

At the session of the Mississippi Legislature of that year, he was elected United States Senator, to fill a vacancy which existed on account of the failure of the previous Legislature to elect a successor to Walker Brooke, whose term had expired.

Governor Brown took his seat in the Senate on the 26th of January, 1854. His experience as a legislator, and familiarity with public affairs, acquired by his incumbency previously of high public stations, at once enabled him to become a leading member of the Senate, and to rank amongst its most attentive business members, as well as ablest debaters.

His speeches in this volume, delivered since he has been in the Senate, like all of his efforts, are characterized by that cogency, strength, and all of the other attributes which mark the perfect debater. He has just concluded his first term in the Senate, and is beginning a new one of six years, for which he has been chosen by the Legislature of his state.

As a Senator, Governor Brown has been eminently national in his course. If to the casual observer he has sometimes appeared a little sectional, it must be borne in mind that he comes from the South, a section against which abolition has directed its batteries—and that it was his duty, as it was his pleasure, to defend that section. His senatorial course is too recent and too fresh in the recollection of the country to need sketching, and we close this brief notice by directing the reader's attention to his speeches in the Senate, as embodied in the last half of this volume.



## SPEECHES AND WRITINGS

OF

# HON. ALBERT G. BROWN.

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### NATIONAL BANK.

Report of Hon. Albert G. Brown, in the House of Representatives of Mississippi, made January 24th, 1838, from the committee to whom was referred so much of the Governor's Message as relates to a National Bank.

**MR. SPEAKER:** The committee to whose consideration the foregoing resolution was referred, have given to the subject which it involves, the calm and dispassionate reflection which its vast magnitude and importance requires, and have instructed me to report, as follows :

Your committee believe from the manner in which his excellency the governor introduces the subject of a National Bank in his written communication to the two houses of the legislature, that he looks to it as part and parcel of the means of enabling "our citizens to anticipate another crop," and "to retain as a spring to industry a portion of the means now in their possession to operate upon." Such is the plain and palpable inference from the language employed in the message. If these were the only advantages or disadvantages incident to the establishment of such an institution, your committee would not conceive it their duty further to investigate the subject, since "an expression of this body," however early or emphatic, would not, in the course of human probability, effectuate in any particular, the object pointed out.

But looking beyond those immediate objects, your committee have thought it their duty to examine the subject more thoroughly. In doing this, they find it divisible into two parts, each of which they propose to examine in its order. First, as to the constitutional right of the general government, to exercise the power of erecting such an institution ; Secondly, as to the expediency or propriety of establishing such an institution at this time, and its probable effects upon state banks and other local interests.

Your committee see no reason to depart from the long-settled and well-established republican principle, that the government of the United States is one of limited delegated powers, and that it can in no case, with propriety, exercise any other powers, than such as have been expressly delegated, and such others as spring incidentally out of those

substantively given. That within the sphere of its delegated powers, it is bound to revolve; and whenever it shoots beyond this orb, it becomes a trespasser upon the rights of the states, and produces a tendency to consolidation, and absolute anarchy, alarming to state sovereignty, and at once subversive of the best interest of the American people. Viewing the general government, then, as one of limited authority, entitled to exercise only such powers as are above specified, your committee have searched with an anxious solicitude every line in the Constitution, to find some warrant for the erection of a National Bank. It is not pretended by the most zealous friends of this great measure, that the authority for the establishment of a National Bank, is to be found among the enumerated powers. The only legitimate subject of inquiry then is, can it be made incidental to the exercise of any specific grant of power? It is proper, first, perhaps, to define the meaning of incidental powers, as applied to this inquiry. They are such powers alone as are absolutely essential and necessary to carry into effect the substantive enumerated powers; as for instance, the power is expressly and especially given to create post-offices and post-roads; the subject of legitimate inquiry then is, what are the incidental, or implied powers carried along with, and to be exercised by virtue of, the specific grant? The answer is clearly and emphatically,—all powers necessary and proper, for carrying into full and complete effect this substantive power. As for instance, the power of appointing postmasters, letting out mail contracts, providing by law for the punishment of mail-robberies, and to do all other acts needful to be done, for the cheap, safe, and speedy transportation of the mail from one place to another. These are *incidental* powers, which, though not expressly enumerated, are absolutely “necessary for carrying into effect that express authority to create post-offices and post-roads,” and without which that clause in the Constitution would ever remain a dead letter. Thus the power to create military schools and academies, though not expressly granted, is fairly incidental to the powers of declaring war, and providing for the common defence. If this be the correct rule for defining incidental powers, the next inquiry very properly is, to the exercise of what specific grant is the power to charter a bank incidental? Here your committee find themselves launched full upon the trackless ocean of visionary political speculation. Whilst one class of politicians find ample authority for the exercise of this power, in that clause of the Constitution which says, that “Congress shall provide for the common defence and general welfare of the people of the United States;” another class contend that it is incidental to the power “to regulate commerce amongst the several states, and with foreign nations,”—and another asserts that the obligatory clause, requiring Congress to see that the revenue is collected in a uniform manner, throughout the United States, carries along with it, by an irresistible rule of construction, the power to charter banks,—whilst another, less disposed to define and particularize, argue that it is necessary to carry into effect the delegated powers generally. It has occurred to your committee as a subject worthy of some remark, that of the many parties and factions which advocate the cause of a National Bank, there is not one which does not admit, that if the general government exercise such power, it must find a guarantee for so doing, in the Constitution, since that government can

do no act of sovereignty, other than is allowed by the terms of that instrument, and yet no two of them agree as to what clause affords that guarantee.

Your committee have also viewed with singular emotions the wonderful influence of this great question over the minds of political partisans. It has brought together and made to harmonize, all the elements of opposition. The *lion* and the *lamb* may well be said to have lain down together. The high-toned Nullifier, whose sword leaps quickly from its scabbard to protect his country, and to avenge even a look that threatens her with insult; he whose warm blood coursed quickly through his veins upon the very mention of "protective tariff," and whose choler drove him almost to madness, in resisting an unconstitutional act of the general government, is found greeting in this great conflict, with amazing cordiality, the cold calculating Federalist, who thought it exceedingly impious to rejoice at the success of our arms in war, and who thinks a tariff to protect northern manufactories, perfectly constitutional. Yes, sir, we find that those who believe a tariff constitutional, and those who believe it unconstitutional,—those who believe internal improvement by the general government, constitutional, and those who believe it unconstitutional,—and last, though not least, those who believe a bank constitutional, and those who believe it unconstitutional, all uniting, with a few honorable exceptions, in advocating a bank of the United States. Is it for the cause of the bank that all this is done? No! It is for that other purpose of destroying the existing administration, and bringing it into disrepute among the people. It surely never can be said that a party who, but a little while ago, were ready to resist "peaceably if they could, forcibly if they must," an unconstitutional act on the part of the general government, are now, for the mere love of gold, ready to commit what most of them believe, or profess to believe, a still greater infraction upon that Constitution? No! We are unwilling to believe it; the fountain of this outpouring in favor of a National Bank will be found in an anxious longing after *power*—a power which can only be attained in the downfall of the present administration.

Your committee, with an anxious desire to arrive at correct conclusions upon this interesting subject, have made diligent inquiry into the reasons by which different politicians attempt to sustain themselves in deriving power from the Constitution to charter a National Bank. The result of their inquiries they respectfully submit to the consideration of this House.

First, As to those claiming under that broad power of providing for the common good, &c., which, like the mantle of charity, is found to cover a multitude of political sins, your committee have heard the opinion advanced by jurists, and sanctioned by politicians, that Congress, so long as it exercises no powers that have been expressly prohibited, and keeps in view the exercise of its delegated functions, is to be the exclusive judge of its own powers. Indeed, Chief Justice Marshall, in delivering the opinion of the court, in the celebrated case of McCullough against the state of Maryland, lays down the principle in broad terms, "That when the law is not prohibited, and is intended to carry into effect any power intrusted to the Government, Congress is to be the exclusive judges of the degree of its necessity. Suppose this to be the

settled doctrine upon this subject, and your committee will not be so arrogant as to question its rectitude; the abolition of slavery is not expressly prohibited in the District of Columbia, nor in any of the states where it exists, and among the enumerated powers of the general government, is one authorizing it to provide for the common defence and general welfare. Suppose then that the Abolitionists of the North, whose strength, disguise it as you will, is increasing with frightful rapidity, should, under this rule of construction adopted by jurists, and sanctioned by politicians, insist that in all cases, it was their duty to provide for the "general welfare," in obedience to the power given them, and that to carry into effect this specific grant of power, it was "necessary" to abolish slavery in the District of Columbia, and the states where it exists. We ask whether it might not be competent for them to do so, or how this case is distinguished from the one immediately under consideration, to wit: the power to charter a National Bank, because it is a measure "necessary" for the "general welfare;" and if the Supreme Court thought it incompetent for them to inquire into the degree of necessity involved in the first case, could they undertake to make the inquiry in the latter? We think not. Again, suppose the nation, in the present enfeebled state of its treasury, be suddenly involved in a conflict with Great Britain, or some other foreign power, Congress is called upon to furnish money to carry on the war; this she refuses to do by levying a direct tax which shall bear equally upon all portions of the United States,—but incorporates a company, and invests them with exclusive power to navigate the Mississippi river for fifty years, in consideration that that company will pay the Government a bonus of twenty-five millions of money. The power to have such action on the part of the general government, is well questioned; it is not however expressly prohibited, and Congress asserts that it is "necessary" in providing for the "common defence and general welfare" to charter said company, and invest them with such powers, for the consideration of the twenty-five million bonus, and the Supreme Court, if appealed to, says, Congress is to be the judge of the necessity, and we will not interfere.

We ask if such rules of construction, with such arguments to sustain them, may not, indeed if they are not likely to lead to the most disastrous consequences—consequences portentous of great evil to the rights of the states, and threatening at once the stability of our excellent forms of government? Your committee are of opinion, that this clause of the Constitution, furnishes no warrant for the establishment of a National Bank.

The second inquiry is, as to the measure of power conferred by that clause of the Constitution, delegating authority to the general government, to regulate commerce between the states, and how far a "National Bank is necessary and proper" to the perfection of this power.

What is meant by regulating commerce between the states and foreign nations, in the sense of the Constitution, is a subject of inquiry, properly engaging the attention of your committee. There is an essential difference, we think, between *the means of carrying on commerce*, and the *regulation of commerce*. If, instead of saying that Congress might pass laws regulating commerce among the several states and foreign nations, the Constitution had declared that Congress should have

power to furnish the means of carrying on commerce between the states, &c., then we think the advocates of a National Bank might well have pointed to that provision, as affording the strongest guarantee for the action which they propose to have. The facilities in the shape of exchanges, bank notes, &c., which an institution of this kind is capable of affording, may well be regarded as a convenient means of carrying on trade. But how these facilities can be regarded as regulating commerce, we are at a loss to determine. We have accustomed ourselves to regard this as a government in which the *equality of human rights* was respected. If we are correct in this, we do not readily perceive how it is that the commercial part of our citizens can justly claim at the hands of the government a degree of assistance in their business, which is not extended to those engaged in other pursuits. Money, it will readily be admitted, is the article by which the merchant carries on his trade—lawyers carry on theirs with books—the farmer or mechanic, his with tools and utensils of various kinds. The merchant is claiming of the government, that it should afford him the cheapest and most convenient method of conveying his money to the place where he intends using it. But at the same time, he, no doubt, would think it a monstrous exaction if the lawyer, the farmer, or the mechanic, should each claim the same assistance, and demand the right to have the means afforded him by the government of conveying in the cheapest, most speedy, and convenient manner, the implements of his trade from one place to another, wherever he may chance to need them. And yet, if this is a government of *equal rights*, we do not perceive the reasons which render one of these demands more unwarrantable than the other. The opinion that Congress should regulate *exchanges*, is of recent origin. In the early establishment of the Bank of the United States, its friends urged *incidentally* the advantages it would afford as a cheap and convenient medium of exchange. But they urged this as argument, merely why the government should exercise the power elsewhere given it, to charter a bank, and not as affording of itself that power. By regulating commerce between the states and foreign nations, your committee understand nothing more to be meant, than that the whole power is surrendered to the general government of establishing ports of entry, providing by law what vessels may enter them, and under what legal restrictions, and generally to protect the commerce of all the states alike, and to see that one state does not conduct its commerce with any foreign power on terms detrimental to the interests of another. If anything more than this is meant, we are unable to determine what it is.

The third subject claiming attention, is that clause in the Constitution which provides for collecting duties, imposts, and excises in a uniform manner throughout the United States. It is contended, that under this clause a National Bank can and ought to be chartered. Your committee are of a different opinion,—the assertion is evidently based upon the assumption that it is wholly impracticable to collect the revenue in anything else than a paper currency. If the premises are yielded, the reasoning may follow. But are the premises founded in reason and good conscience, according to the spirit of the Constitution? We think not. The framers of the Constitution have not done their work by halves; wherever it is made the duty of government to do a particular



act, the means are afforded to effect that act, fully, perfectly, and entirely. Hence, the power of coining money, and regulating the value thereof, is conferred upon the general government, to enable it to carry into effect that other clause, which requires it to collect duties, imposts, &c., in a "uniform manner." Else how could they do it? Taxes are to be collected in dollars and cents; and if Virginia made dollars to consist of seventy-five cents, New York of eighty, and Massachusetts of sixty-eight and three-fourth cents, as might probably have been the case, if the whole power of coining and regulating the value of money had not been surrendered to the general government; and under this state of affairs, with coin thus adulterated, it would have created as much embarrassment to the general government, to collect its revenue, &c., in a uniform manner, as it would thus be collected in the notes of local banks, at present depreciated to greater and less amounts in every state in the Union. Your committee do not hesitate to pronounce, that the means of collecting the public dues is clearly pointed out by the Constitution.

Besides, your committee are of opinion, that the Constitution never contemplated that the general government should oblige itself to receive, in payment of its dues, an article which it could not offer in discharge of its liabilities. It would be a monstrous construction of the Constitution, to say that the general government might properly force bank-bills upon a creditor in discharge of a debt! No such power is yet claimed by that government, certainly none such was ever given.

Your committee, upon a full and impartial investigation of this whole subject, can find in the Constitution no warrant for the erection of such an institution. Precedent gives it the strongest claim which it has upon your attention; but precedent is not law, much less can it be made to alter or amend the Constitution. So far, however, as precedent goes, we are willing it should have its due weight; it is ground, however, upon which the advocates of a National Bank should lightly tread. The opponents of the bank can show five precedents against it where its friends can show one in its favor. One Congress in 1791 decided in favor of a bank, and another in 1811 decided against it; one Congress in 1815 decided against a bank, and another in 1816 in its favor; again, in 1832, 1834, and in 1837, Congress successively decided against the measure. The precedents in the national councils are, therefore, more than two to one against it.

If, then, we refer to state legislatures, and to the decision of state courts, the precedents, so far as they go, are as four to one. So far then as precedent is concerned, we think there can be nothing found which militates in favor of a bank. The mere fact of a National Bank having existed for four-fifths of the time, since the organization of the government, carries with it but little force, when urged as evidence that the people have, during that time, acquiesced in its establishment, if we reflect that it has only been at the expiration of each charter that the people have been favored with an opportunity of expressing their views as to its expediency or constitutionality. There is no means of ascertaining whether the people, during that time, acquiesced in its creation or existence, since all means of giving expression to their sentiments was denied by the terms of its charter, which for each successive term con-

tinued for twenty years. It is urged as a further argument in favor of a bank, that General Washington sanctioned it in 1791; but it will be recollected, that at that time the tenth article of the amendment to the Constitution, restricting the general government in its action, and specially declaring that all powers not delegated are reserved to the states respectively, or to the people, was not adopted. The line between the sovereignty of the states and national government was not distinctly drawn, and the rights of the states were not at that period regarded with the same jealous eye as at present. And it was the encroachments of the general government upon the rights of the states, in the nature of *federal alien and sedition* laws, that first aroused the fears of the states for their reserved rights, and caused them to make the express declaration contained in the tenth section. What General Washington would have done after the adoption of that section, must ever remain a matter of doubt. But if his general devotion to the rights of the people afford any criterion, we may reasonably infer that he never would have yielded his assent to such a measure. Your committee, having thus embodied their opinions upon this division of the subject, will submit briefly their views upon the second point: to wit, as to the expediency or propriety of establishing such an institution at this time, and its probable effects upon state banks and local interests. Banks are not money, nor is the paper which they issue a safe substitute for money, any further than it represents coin, into which it may be converted at the will of the holder. The first care then of those who incorporate banks, should be to inquire from what source is the money to be derived, with which we propose to fill the vaults and enable it to commence the process of issuing?

Perhaps we are told that this stock will readily sell in a foreign market. But we hear a thousand voices from every point of the compass answering, No! No! We want no foreign subject fattening on our labor, and controlling with his money our politics in peace, and our commerce in peace and in war. The indignant voice of the American people has been too often raised against this monstrous scheme, any longer to permit a lingering hope that they may ever sanction it. How then are we to obtain the capital? Our citizens will unhesitatingly buy the stock, but by what means are they to pay for it? Certainly not in the notes of local banks, they form no basis upon which a national bank would dare to issue. You must force them to resume specie payment, to enable your stockholders to convert the paper (with which they propose to pay their stock) into specie, and thereby drive them to bankruptcy, or allow the stock to remain unpaid. For we hold it to be absolutely certain, that the local banks never would, unless driven to it, attempt so rash an act as the resumption of specie payment, whilst thousands of hungry expectants waited at their doors, ready to rush in and devour their little substance; and if driven to it, is there not great danger, that finding themselves thwarted in their calculations, that many of them who might be able, by prudent conduct, to discharge all their liabilities, would venture upon the desperate expedient of confessing their bankruptcy, dividing the spoil, and saying to anxious creditors, "go your way, we have not wherewith to relieve your demand." If these thoughts are entitled to any consideration, we think they afford some reason why we

should not be too hasty in calling into existence a creature like this, which can only live by feasting on our substance. But by what other means can it affect our real interests? We reply, that whilst it does not add to the value of our great staple, it does, by augmenting the amount of an article called paper money, increase the price of every article of domestic consumption.

Does a proposition so clear as this need reason to elucidate it, or argument to sustain it? We assert that the charter of a National Bank does not increase the value of cotton; all experience proves that this great article of commerce is not regulated by the existence of banks, but by the demand for it, by those who fabricate it into cloth and other things. If we see a remarkable rise in the price of cotton, we are apt to inquire the cause; the answers, be they ever so numerous, at length resolve themselves into one, plain and simple; the demand is greater now than it was before. Hence, we find that in 1827, '28, '29, and '30, when the bank was in the fullest tide of its operation, cotton was worth seven pence (equal to twelve cents); but in 1836, when the bank was virtually out of existence, the demand increased, and cotton rose from sixteen to twenty-two cents.

If, then, it does not render the labor of the citizens more valuable, we are at a loss to discern the great advantages which the working man is to derive from its creation. But we are satisfied of its effects, when the redundancy of paper money which it circulates, has swelled in a twofold relation the value of every horse, plough, harrow, and other articles of husbandry or family consumption which the laborer buys. Then we find it is an institution, which, instead of lightening the poor man's toils, in fact levies a heavy contribution upon the wages of his industry. It is an institution which makes the weak weaker, and the potent more powerful; ever filching from the poor man's hand to replenish the rich man's purse. Your committee have mistaken the duties of legislators, if it is their province to guard over the peculiar interest of the speculator and gambler, who live by the patronage of banks, to the detriment and ruin of the honest yeomen, whose toils have raised our happy republic from a few dependent colonies to the highest pinnacle of national fame, causing Indian wigwams to give place to splendid cities, and the whole wilderness to bloom and blossom as the rose. It is well said that "the laborer is worthy of his hire;" and the illustrious Burke never uttered a sentiment which better deserved to be embalmed in the hearts of freemen, than that the working man should feel the wages of his labor in his pocket, and hear it jingle.

In conclusion, we recommend, as an expression of this body on the subject of a National Bank, the adoption of the following resolutions:—

1. *Resolved*, That the government of the United States has no constitutional right to charter a National Bank.

2. *Resolved*, That it is inexpedient and improper to charter such an institution at this time, even if Congress had the constitutional right to do so.

## MR. VAN BUREN'S ADMINISTRATION.

*Speech in the House of Representatives, April 17, 1840—In Committee of the Whole, on the general appropriation bill.*

The House having resolved itself into Committee of the Whole on the State of the Union, on the bill to provide for the civil and diplomatic expenditures of the government for the year 1840, and the general policy of the administration being under discussion, Mr. BROWN spoke substantially as follows:—

MR. CHAIRMAN: Since the commencement of the present session of Congress, it has been my custom rather to listen to the views of other gentlemen than to present any of my own. I have hitherto been a silent member, not from any indifference on my part as to what was passing, or any unwillingness to give expression to my opinion, but from an almost insuperable aversion to engaging in a general scramble for place on this floor. And now that I have arisen to address the committee, it would be a fraud upon its members if I did not frankly admit that it is not so much my purpose to discuss the bill under consideration, as to take part in a desultory debate, which has been going on for the last ten or fifteen days. If, in the course of remark in which I design indulging, it shall become necessary for me to allude to the public or private character of any distinguished citizen of this country, I shall do it in that spirit of courtesy which becomes one gentleman speaking of another, and with all due regard to the station which it is my good fortune to occupy. I shall not indulge myself in a train of remark better suited to the medium of a *grog shop* than to the hall of legislation. The example has been set me by one gentleman [Mr. Ogle], of speaking of a prominent member of the other branch of the Legislature as “a common liar;” and by another [Mr. Stanly], of declaring that a distinguished Senator is a fiend incarnate, fit only to be associated with the howling spirits of the vasty deep. I cannot consent, sir, to follow such an example, however distinguished the source from which it comes. I leave the classical and beautiful phrases of liar and fiend to the exclusive use of the more refined and elegant gentlemen who belong to the party that claims for itself all the wealth, all the talents, and all the decency of the country. Plain, unpretending Loco Foco as I am, rude and uncouth, I will not attempt to soar with these gentlemen into the regions of space, but shall content myself with appearing what I really am—respectful and courteous to every man, and demanding from every man that respect and courtesy which I extend to others. I assure you, Mr. Chairman, I have not the slightest inclination to distinguish myself by the use of expressions better suited to the mouth of a street bully than to the lips of a member of Congress; and I leave honorable gentlemen to the sole occupancy of this new field into which they have gone, free to reap and enjoy all the laurels that may be gathered there, undisturbed by any act or expression of mine. My object is to discuss principles, not characters. I am now about to enter the grand political arena,

which has stretched its gigantic dimensions before me; but before I do so, I may as well take a very cursory view of the bill nominally under discussion; and, in doing this, I have an especial favor to ask of the senior members of this House. It is this: point out to me such items in this bill as are objectionable; tell me in what the objection consists; ought the whole item to be stricken out, or only a part? and, if only a part, how much? I ask this, and I do it in all sincerity. It is necessary for me to have some further intelligence on the subject, to enable me to act advisedly. One of the pledges which I gave my constituents, and which I am resolved to carry out, was to aid in reforming the abuses of this government, if, indeed, any existed, and to reduce its expenditures, if they could be reduced, consistent with the public faith and the substantial interest of the country. I am here, sir, for that purpose; and now is the appropriate time to commence the great work of reform. I am not sufficiently familiar with government to know which of the expenditures proposed may be dispensed with, or whether, indeed, the whole of them are not absolutely necessary. It is, therefore, no idle interrogatory, but one propounded with feelings of deep sincerity, and to which an answer is most earnestly solicited. Which of the proposed items of expenditures in this bill may be stricken out? We are told that the bill proposes an expenditure of nine millions of dollars; and that nine millions is an enormous sum to expend in the civil and diplomatic departments of a *Democratic* administration. True, sir, nine millions of dollars is a large, if you please, an enormous sum, but twice nine millions would be a sum much more enormous; and yet who will say that if the honor, or the substantial interest of the nation required the expenditure, that the appropriation ought not to be made, and made promptly? The gentleman from Pennsylvania [Mr. Ogle] objects to that item in the bill which proposes the appropriation of fifteen hundred dollars to the clerk employed by the government to sign land patents; and, if I understood the gentleman aright, it was not that the service was unequal to the money, or that the office ought to be abolished, but that the officer was politically opposed to the gentleman; and for this very substantial reason, he would refuse to compensate him for his labor. Sir, the service, or a great portion of it, has already been performed—performed under a positive contract, a solemn law of Congress. This is not denied, nor is it objected that the service has not been faithfully and efficiently performed; but the person performing it is objectionable to the gentleman, and this furnishes ample reason, in his judgment, for violating the plighted faith of the nation, and disregarding the positive right of an officer of government. If the office has become a *sinecure*, and there is now no longer any necessity for it, let us, like men guided by reason, and not like children controlled by the caprices and prejudices of the moment, go to work, pay for the service already performed, and then repeal the law creating the office, and thus get clear of the officer. But do not disgrace yourselves and the nation by taking the service of a citizen, and then refusing to pay for it, even though that citizen be the son of a Democratic President; and let it be continually borne in mind that the present administration is nowise responsible for the passage of the law creating this office. It was passed under the late administration, and at a time when at least one house of

Congress (the Senate) was opposed to that administration, and for the reason, I suppose, that there was then thought to be a necessity for it. If that necessity has ceased, let the law cease with it. All I now say is, that we cannot, and if we could, we ought not, in this informal manner, to get clear of this responsibility of government. I think (and the gentleman, on reflection, I fancy, will concur with me) that he would much better have expended the time and treasure of the country in proving the law to be no longer necessary, than in abusing the President and his son for offences of which they are even more innocent than himself, and the party with which he is associated.

Again: the gentleman would have us abolish the office of Minister to Russia, Spain, and Mexico, not by a repeal of the law creating them, but by refusing to vote the necessary compensation to the respective incumbents. This, to my palate, Mr. Chairman, smacks a little too strong of agrarianism. This is levelling as with the scythe of ruin, and with no regard to law, order, or the ordinary rules of common honesty. This is the worst species of Loco Foco agrarianism. Has the gentleman properly considered this subject? Is he quite certain that the honor and dignity, and even the pecuniary interest of the nation, would not suffer by such an act? If it would not, then, sir, if the gentleman will place his proposition before the House in proper form, I will vote for it; but I cannot consent, Loco Foco as I am—and therefore prepared, no doubt, in the judgment of the very eloquent gentleman from Pennsylvania [Mr. Ogle], for the performance of any act, be it never so monstrous—to put my country in a light so disreputable before the world, as to refuse to compensate our resident ministers abroad for services already performed; and thus, without inquiry and without reason, to reduce them from the dignity and pay of Ministers Plenipotentiary to a mere charge d'affaires. But, sir, the gentleman, I am sure, did not make the proposition seriously. He would not vote for it himself; he only wanted something to abuse the administration about; something out of which to make political capital; and, in the absence of all other things, he had brought forward this proposition, not wishing or expecting it to pass. The gentleman complains of the vast expenditures of government; and when asked wherein they have increased so enormously, he points us to the Post Office Department; but he does not inform us of the reasons which produced this state of affairs. Nothing is said about the vast increase of mail facilities in all parts of the country—nothing about the mail being transported over millions of square miles, which but a few years since was a savage waste—nothing about the mail being carried to the door of almost every hamlet in the west and south-west, which, under the administration of the younger Adams, to which the honorable gentleman has so often and so felicitously alluded, were total strangers to the post boy, and all the comforts and pleasures which he bears with him. The mail transportation has been greatly extended within the last eight years; but this is not the only, nor indeed the *greatest* reason which has produced the increase in the gross expenditures of this department. It will be found in the cause which has produced a multitude of political evils. It will be found issuing from that grand Pandora box, out of which has come all our political evils—the existence of banks, the redundancy of paper money,

a species of devouring reptile, which, like the locusts of Egypt, has overrun and laid waste the entire country. Whilst the receipts of the department have been regulated by a fixed specie standard, the expenditures have been placed under the capacious and ever-varying dominion of an ephemeral paper currency—a currency which, though now exploded and exploding, has for the last five years placed a fictitious, nominal value on every particle of property and every species of labor. Thus, whilst the Post Office Department has been denied the right to increase its receipts by an increase in the rates of postage, a state of things is produced by which it is compelled to pay one thousand dollars for a service which, ten years ago, could have been performed for one-half the amount. A contractor who, in 1839, would have carried the mail from Washington to Frederick for two thousand dollars, would, in 1840, demand twice that amount, because his coaches and horses cost him double, and he must necessarily pay twice the usual wages to his drivers. This grows out of an increase in the amount of paper money; which, however, does not add to the current receipts of the department. Under all these embarrassing circumstances, it is not wonderful that the expenditures are increased; the wonder rather is that the department should have been enabled to sustain itself at all. And that which is true in regard to the Post Office, is more or less so in reference to all the departments of government. I am aware, Mr. Chairman, that I shall be met at this point with the stereotyped declaration that the government is responsible to the people for this inordinate issue of paper money—that it was the legitimate consequence of removing the deposits, and vetoing the Bank of the United States. Upon these points I shall, at a proper time, take issue with gentlemen, and endeavor to demonstrate the error into which they have fallen; at present, it would perhaps be wandering a little too far from the record, to go off upon these collateral, and, to this bill, immaterial issues. Though I will not now undertake to show what has *not* produced the present and pre-existing state of affairs, yet may I not expect the pardon of the committee, if I digress for a moment, for the purpose of showing what has, in my judgment, been the real and main cause of their production? Coming from a state upon which the evils of the day have fallen with more severity than upon any other portion of the Union, or of the world, and having been no idle observer of the grand *panorama* which has been exhibited in that country, I fancy that I can speak with some degree of assurance as to the causes which produced its fall, and point with some certainty to the pencil with which the awful picture was first marked out. I come from a section of the Union the most depressed and deplorable in all its monetary relations of any part of this vast and deeply-afflicted republic, affording a theme fruitful to the political economist, and presenting a melancholy example of the folly too often practised of abstracting capital from its active pursuits, and investing it in unproductive property. Mississippi can produce more real exports than the same amount of population in any part of the habitable globe; and yet, with all her energies, we find her, in a time of profound tranquillity, with the ports of the whole world thrown open to her great staples, prostrate, writhing under a load of oppression, to the sustaining of which, with all her energies, she is found inadequate. How and why is this? Let us not

be told that it grows out of any action of the federal government on the subjects of banks and currency. It will find its origin in another quarter: in a too hasty, and, I fear, an improper disposition of the public lands. From the year 1833 to 1836, the Indian title to vast quantities of the most productive territory was extinguished, and it became the policy of the then administration—a policy almost universally approved by all parties—to hurry those lands as rapidly as possible into market. Most of them were situated in a frontier, or, at most, in a sparsely populated country. The wants of the settler, the sturdy pioneer of the south and south-west, whose little settlements here and there dotted the face of the wilderness, were soon supplied, and vast territories of the most productive soil in North America, that having been offered for sale and refused, now remained to be entered at the minimum of one dollar and twenty-five cents per acre. This opened a field for speculation too inviting long to remain unobserved, and the gloating eyes of avarice were turned upon it; a tide of emigrants, from all parts of the country, flowed in, gladdening the wilderness for a season, and filling the land with joy. They, in their turn, purchased their little homes, and seemed contented. The soil was to them what property in general was to our first parents, a common stock, and each individual to himself appropriated, for an almost nominal sum, such portion as his wants required. But this state of things did not long continue. Large companies of land speculators, chiefly merchants from your eastern cities, were organized, and vast sums of money consolidated and sent to the south-west, to be invested in "wild lands," that were wholly unproductive; thus abstracting from the current business a portion of its necessary support, to be invested where it could, by no possibility, produce one dollar of gain; depleting and causing necessary languor and unhealthiness in the channels from which it had been abstracted, and giving no additional vigor to the other departments of business, the lands being purchased for speculation, and not for cultivation. When this species of devouring locusts came among us, and began their work of demolition on the public domain, our hitherto quiet and contented citizen became changed in his nature; the serpent had crept into his Eden, and for the first time he conceived the new idea of making his fortune by land jobbing, rather than by tilling the soil. A portion, nay, the whole, of his surplus cash, which might better have been spent in improving his little farm, or discharging some honest obligation, was invested in "wild lands;" the pernicious example, like all others of similar character, was followed by his confiding neighbor. To-morrow some wanderer from his native home, in search of the new Elysium, finds this land of promise; pleased with the soil, and still more with the generous hospitality of its occupants, he determines to take up his abode. Land purchased at the minimum, is sold to our honest adventurer at twice that sum; and he soon becomes regularly installed into all the mysteries of living without work; for he, in his turn, to make a penny in an honest way, sells the same land for five dollars per acre. The news sweeps over the country like an electric flash; the story of the grand speculation is on every tongue, and the same land is sold for ten dollars per acre. This is too much—

"The banner is flung to the wild winds free."



Fortunes are to be made by speculation. The horn of plenty is inverted, and all may grow fat who will feast their appetites. Drawers are searched, purses are turned, the cash that jingled about the infant's neck is taken off, and fuss and confusion reign; money must be raised to purchase more lands, that we may grow more rich. In short, sir, every dollar that can be raised in the whole country is taken to the land office, given for unproductive soil, and as essentially lost to the real business of the country, as though it had been cast into the sea. Fortunate, most fortunate had it been for my afflicted state, and for the whole country, if the folly had here ceased. But the real capital of the country being exhausted, the legislatures were importuned to create more banks, that there might be more money to invest in more unproductive lands. These banks, without capital, had all to gain and nothing to lose; their issues were free and unlimited; the country was flooded with their paper, producing the disastrous consequences, first, of an ability on the part of speculators to purchase large quantities of lands; and, secondly, the ability to hold them at very high prices, besides stimulating every article of necessary family consumption into an inordinate nominal value. Every man felt rich in the possession of his real estate, upon which he had fixed his own price, with a firm resolve to obtain that price or keep the land. The land might be kept, but it was unproductive. Holding it at very high prices suddenly checked the tide of emigration, and left the country full of venders, but without purchasers. Meanwhile, a system of extravagance is begun and kept up to commensurate with the fancied wealth of neighbor Humbug. The Misses Humbug, whose father is producing nothing, but who is rich in the possession of lands, have doffed their dunstables and a plain silk, and now think it quite mal-apropos with anything short of a satin hat, mounted with a flowing white plume. Embroidered silks, satins, shalleys, and velvets take the place of the old-fashioned family apparel; splendid coaches, blooded horses, servants in livery, fine houses, magnificent furniture, rich and costly services of plate, take the place of domestic simplicity and plain republican elegance. All Europe and America are ransacked for viands to load a mahogany table, that has driven the old-fashioned cherry and walnut from the dining-room of a woodland cottage into the garret of a princely mansion. The northern merchant—as if reason had lost her dominion—excites and encourages the extravagance, by selling vast and almost incomprehensible amounts of merchandise to our country merchants; they retail them to their customers, who in their turn find it impossible to pay in anything better than the paper of an insolvent bank, conjured into existence to answer the present purpose of some reckless speculator, that having come out of its chrysalis, has suddenly taken to itself wings and flown away. The country merchant has a wealthy customer, but one whose means are not *available*. He cannot collect his dues, and therefore cannot pay his merchant in New York. The New Yorker has sapped too deeply the foundation of his trade, by drawing from it large sums of money to be invested in unprofitable lands. He cannot bear up under a dishonor of his country paper. Our dealer is urged to pay, and he in his turn presses his customer; but payment is not made, because it cannot be made; presently the New Yorker fails in business; his failure embarrasses his

neighbor, and his another, and anon a general crash is heard—terror and consternation possess the community. The importunities for money become greater and still more great. The wealthy Mr. Humbug determines to sell a portion of his lands, pay his debts and live independent. He starts out with this honest purpose; but what is his surprise to find everybody selling, and no one buying! He returns dispirited, disappointed, disheartened. He is sued, harassed with executions, and finally breaks; at this point he turns Whig, curses General Jackson, swears that Van Buren is the greatest scoundrel that ever lived, and starts to Texas. Such, sir, is a faint picture of the causes which have produced much of the embarrassments in my own country—such a brief outline of the rise, expansion, and final explosion of the greatest bubble that ever floated on the wide ocean of popular folly. But, Mr. Chairman, there is a more interesting inquiry touching this subject than the one usually discussed in this hall. The real inquiry with the great mass of the people, is not who or what produced the mischief, but what means are to be resorted to to get clear of it. I find that on all the essential points we differ; we differ radically and essentially. It never has, perhaps it never will be, otherwise. There is no such thing as a concurrence among us as to what produced this calamity: for years has it been discussed by the ablest men in the nation, and with as little prospect of arriving at any harmonious result now as when they began. Let us not, then, waste our time in this unprofitable disputation. Let us rather act for the attainment of some present and permanent good. If the house be on fire, let us first extinguish the flames, and then go out into the streets and high places in search of the incendiary. One of the first steps to be taken, is to introduce a rigid system of economy into all the various departments of business, public and private. In republics like ours, if the people become extravagant, the government is likely to be infected with the same mania, since it draws its subsistence and vitality directly from the people; and I call upon members here to set an example to their constituents, worthy of emulation: let them show by their public actions that economy and reform is to be the order of the day, and it will exert a benign and happy influence over all classes of the community. But gentlemen tell me that something else must be done; that it is useless to talk of economy to a man in the last stage of mortal existence; that the community is sick to death, and, if relief be not soon procured, the patient must expire. Sir, we have proposed our remedy. That remedy, which we grant, must be slow in its operations, but will, we think, be more speedy, as well as more certain, than any other, to effect a final and permanent cure. And what have you done? You have stood between our ministering hand and the lips of an expiring patient; and you have exhorted him not to receive our remedy. Still you persuade him that he is growing worse, and that each day he is drawing nearer and nearer to his final dissolution. But what, says the alarmed, exhausted, and dying man, shall I do to be saved? And you modestly respond, Turn off your present attendant, and take us into your service. Ay, sir, take you into his service; and, pray, what will you do? How will you minister to his wants? Upon this subject you are non-committal. You refuse our remedy; and yet you have no panacea of your own. Will

the change which you propose be so salutary in its influence as to heal our afflictions? Will the defeat of Mr. Van Buren and the election of General Harrison act like a charm upon the country? Is this new political Messiah to work by miracles? Is he a sort of political faith doctor? Tell me, sir, what he is to do for the country, and how he is to do it. Upon what principles will he administer the government? What great measure of reform is proposed? And how and by what means is it to be carried out? General Harrison has been before the American people for more than four months, and no man can say—no man holding a position in the Whig ranks, to give force and efficiency to his declarations, *dare* say—what are his opinions upon any great question of national interest. Dare any man say that General Harrison is for or against a National Bank, Internal Improvement, the Tariff, or even Abolition itself? Dare any member of the Whig party on this floor rise in his place and commit his *party* to the support of any measure of any kind? No, sir, they come, in the impressive language of my friend from Tennessee [Mr. Watterson], as the architects of ruin, to pull down everything and put up nothing. That I may distinctly understand the position which gentlemen intend to assume, I now, sir, call upon them individually, and as a party of honorable men, to come out and give us their principles. Do you commit yourselves to the support of a National Bank?

[Mr. CHINN, from his seat. I do.]

But does the gentleman speak for his party? Will his party link their destiny to a National Bank? Will it be the policy of General Harrison's administration, in the event of his election, to create such an institution? I put the categorical question to gentlemen of the opposition, on all sides of the House, and I shall be content to receive a categorical answer. I am impatient for an answer, but it shall be my good pleasure to await the response of honorable gentlemen. I pause for a reply. No one answers. Then, Mr. Chairman, I am justified in concluding, that gentlemen either support a man without knowing his principles, or else they are afraid or ashamed to let his principles be known to the country, and to the very people whose suffrages they ask. If gentlemen can find ease and comfort in either position, I give them joy. Though, Mr. Chairman, gentlemen here will not commit themselves or their party to the support of a United States Bank—though, sir, they do not, and will not, and dare not, designate this as their means of relief, yet I choose so to regard it. All of us agree that something must be done to relieve the country, purify the currency, and move again the stagnant pools of commerce. We (the Democrats, or the Loco Focos, if it please you better) say that that something must be the adoption of the Sub-treasury. You, gentlemen, say what? You are loud and long in your denunciations of our scheme, and swear to it an eternal hate. What may we expect of you? What do you bring forward as the great antagonist of the Sub-treasury? Nothing; literally nothing.

I think proper to say, Mr. Chairman, to my constituents, through the medium of this House, that the present state of things must continue, or the Sub-treasury must be adopted. Nothing else can be done—nothing else is proposed; and those who oppose our scheme, and produce none of their own, must be in favor of the existing state of affairs. If I can get

no one here to take up a National Bank, and oppose it as the great rival to the Sub-treasury, I will leave this hall and discuss the question with particular reference to the state of political feeling in Mississippi. There the Whigs are more unflinching than their brethren in this latitude. They come out boldly, and avow their preference for such an institution. And now, sir, permit me to institute a brief comparison between the two schemes; first premising that in all our legislative action it becomes our solemn and imperative duty to make our acts conform to the letter of the Constitution, and to the spirit and meaning of our republican form of government. Our venerable forefathers first conceived the idea of throwing off the British forms, and when they had done so, they resolved to crown the bold adventure by establishing what had been hitherto unknown in the science of government, to wit: a government of the people. They gave us a representative democracy, and so admirably constructed, that once in two, four, and six years, all political power reverted to the people; and so long as we adhere to that form of government, it is our duty to do no act which will take those powers out of the hands where our forefathers reposed them. Indeed, it may well be questioned whether it is not a species of political treason to do so.

And now, sir, pray what is a Bank of the United States? For want of better data, I take the proposition of the distinguished statesman and orator from Kentucky [Mr. Clay], regarded everywhere as Sir Oracle, the Jupiter Tonans of the Whig party. His bank was to have a corporate existence of fifty years, and an incorporated capital of fifty millions of dollars. And what are the important functions it is to perform? One gentleman on my right says it is to "regulate the currency." Another, on my left, says it will regulate commerce. My friend who sits before me thinks it will regulate the state banks; and the member near me wants it as the fiscal agent to collect and disburse the revenues of government; and my friend from Louisiana [Mr. Chinn], who is the only man of his party that has had the boldness to come out in favor of such an institution, thinks, I have no doubt, it would perform all these various offices.

[Mr. CHINN. It did do so once.]

I hear the response of my friend, and it is sufficient for my purpose. I admire his honesty, and I would compliment his frankness, but I cannot, except at the expense of his discretion. Yes, Mr. Chairman, a bank such as that of which I have spoken, might, perhaps it would, perform all these various offices. But, sir, what is the bank to which you propose to intrust these powers, and under what influence is it placed? An association of thirteen merchants of the city of New York, under a corporate name, elevated, by a solemn act of Congress, above the great mass of the people; not subject to their will, and not reached by any influence of theirs; under no control other than that of their unbridled will, conducting their proceedings in secret chambers, and with an eye single to the interest of the stockholders and favorites of the bank. And this is the institution to which you are to intrust the regulation of commerce, the regulation of the currency, the regulation of state banks, the fiscal agency of the government; and, I will add, the regulation of the wages of labor, the prices of property, and the opinions of members of Congress. And for what period of time? For fifty years, or until your

bank charter expires by its own limitation, it exercises all these various powers supremely, independently, without control. Are these powers among the essential ingredients of government? Are they not in fact the very elements of government itself? May that be called a government of the people, where the power to regulate commerce, to regulate exchanges, and fix at pleasure the quality and quantity of the circulating medium of the country, is taken out of the hands of the people, and intrusted, for a period of fifty years, to a *coterie* of bank directors, owing no responsibility to the people or to their representatives, but acting by sanction of law, in a sphere above and beyond the power and influence of the ballot-box? Is that, sir, a representative democracy, where all the essential elements of government are taken from the representatives chosen by the people, and placed in the custody of a corporation—an immaterial thing; a thing not visible or tangible? Answer me these things; and if you answer, as I know you must, then tell me, sir, whether you are violating the *letter* of the Constitution, immolating our forms of government, insulting the shades of our fathers, and converting what they intended should ever remain a representative democracy, into a sort of incorporated political oligarchy—whether, sir, you are wresting from the people the powers of government, and surrendering them into the custody and keeping of a corporation. Gentlemen insist that the United States Bank is to regulate the local or state banks. By this I understand it is to control the amount of their issues. If it expands, they expand; if it contracts, they contract: thus, at its beck and nod, money is plenty or scarce. If the Bank of the United States wills it so, money is plenty, property rises in value, and wages grow higher. Presently, from inclination or necessity, it contracts its issues, money becomes scarce, wages go down, and property sinks in value. Thus, by contracting and expanding its issues, which it does at will, it regulates the wages of every man's labor, and fixes the value of every species of property, and with as much ease and facility as you, sir, would regulate a clock by raising and sinking the pendulum; and all this is done in a government where the people are flattered with the *story* of their supremacy, and cajoled into the belief that they are in fact the sovereigns of the land.

But, says my distinguished friend over the way, we must tie up the bank with the strong cords of the law—subject it to the frowns and indignation of the people—let the thunders of an outraged constituency fall upon the ears of our bantling, and bid it pause in its career of ruin. Alas! sir, it has no ear; it will be deaf to your lamentations, here and elsewhere. You may scowl upon its conduct, but it is *blind* to your indignation; it is a mere *ideal* thing. You hear the winds, but you do not see them; you feel the rays of the sun, but cannot put your hand upon them; and as well might you attempt to lock up these invisible and intangible things, as to attempt, by legal enactments, to restrain a bank within its chartered limits. Æolus locked up the winds in the mountain caverns, and the sun stood still at the bidding of Joshua. But, alas! there are no Æoluses, no Joshuas now. All time, all experience, has shown that the tendency of corporations and of associated wealth is to place themselves above the law, the Constitution and people; and as well, sir, in my opinion, might you attempt to chain the lion to his lair,

by throwing cobwebs about his mane, as to attempt, by legal restrictions, to keep a fifty million bank within any prescribed limits.

Permit me, Mr. Chairman (and only for the sake of argument), to submit a proposition to honorable gentlemen; and as I only submit it by way of argument, I beg that gentlemen may not be alarmed. Instead of giving up the powers of government, to be exercised by an invisible moneyed aristocracy, in the form of a National Bank, I propose to give them to the President of the United States. That is, sir, instead of having commerce, currency, exchanges, local banks, and political opinions, the wages of labor, and the value of property, subjected to the controlling influence of one grand consolidated National Bank, I propose to place them under the control of the President of the United States; and I am not particular whether that President be William Henry Harrison or Martin Van Buren; nor even, sir, in the language of Mr. Clay, if it be Thomas H. Benton, Amos Kendall, Francis P. Blair, or the Devil. To the President of the United States, whoever he may be, I propose intrusting these powers. What objection do gentlemen make? Here is the man of the people's choice, selected by them from fifteen millions of freemen, in consideration of his talents, his patriotism, and his exalted moral and political worth, to preside over their destinies. To this man, thus chosen, holding his office for a limited tenure, with no motive to act corruptly, and with every inducement to act leniently, reached by the smiles and subjected to the frowns of his countrymen, with a hard-earned reputation at stake, with, in fact, all to lose and nothing to gain, I propose intrusting these powers. Methinks I hear my friend over the way, to whom executive patronage is even more terrible than the ghost of Banquo was to the affrighted Macbeth, lifting his eloquent and impressive voice against it. Why, says he, this is worse than war, pestilence, and famine—more terrible than standing armies. Hark ye, friend, the people can do no wrong; they are sovereign; they are capable of governing themselves; at least so you and I persuade them; and these powers are only to be intrusted to the man of the people's choice. If he act corruptly—if he play the tyrant—the people, the sovereign people, have the correction in their own hands; they have only to exercise their reserved high constitutional privilege at the ballot-box, and all is right; the corruption is made pure, and the tyrant is dethroned. But, says my friend, give these powers to the Executive, and he will rise above the people and above the influence of the ballot-box. If you give him these powers, you constitute him king, emperor, autocrat, supreme ruler of the land. You may still keep up the name of freedom—still cling to the withered skeleton of the Constitution; you may go through the forms of an election, but its influence is not felt; all political power is merged in the Executive, and the voice of the people is hushed, or has become as “sounding brass and a tinkling cymbal.” Why, says the gentleman, in the fulness of his patriotism, and in the plenitude of trepidation at the horrors of executive patronage, there is not a crowned head in all Europe who possesses one tithe of the power you propose to confer on the American President. Ay, sir, and upon whom do you propose to confer all this power? Not upon the man of the people's choice—not upon the man who is elected by the people, and amendable to the people—but upon a soulless, unfeeling, and irresponsible corporation. If the

possession of the powers by the President constitutes him king, emperor, autocrat, pray, sir, tell me, in the name of all that is reasonable and right—in the name of God and our beloved country, what does it constitute the bank? Says the gentleman, the bank once exercised all these powers, and we did not feel its tyranny. It is not the possession of power that constitutes the tyrant, but the exercise of it. Elizabeth ruled over England, and her people were prosperous and happy; but the Stuarts succeeded to the throne, and *with the same powers* they threw terror and consternation over the land, and filled the hearts of the people with mourning. I know not, sir, by what feelings and motives other gentlemen are moved, but, for myself, if these powers are to pass out of the hands of the people, I want to see them put in the possession of a man—a thing of life—a real thing of flesh and blood. If we are to have any king or tyrant in this country, I want that he may be a living, creeping thing—something that I may see, that I may feel, into whose face I can look, and upon whose brow I can place my burning curses as he bends about these uncaptive limbs the fetters of despotism—and not a soulless, unfeeling corporation—an invisible, intangible, and immaterial thing—a thing not responsible to man on earth, or God in heaven. So help me Heaven, I could not intrust these powers to Washington himself, though his sainted and canonized spirit (which I trust is ever hovering around this Capitol, and rendering up its devoutest orisons to God, invoking His benedictions upon this people) could return to reanimate his body and quicken it into renewed existence. I could not, sir; because these powers once given away, no residuary power could make us free; and that which I could not intrust to the Father of his country, I surely would not intrust to a corporation, even though that corporation consisted of thirteen New York merchants, and they not only honest but above suspicion. Here I am met by the declaration that I expect the Sub-treasury to perform all these various functions, and that the Sub-treasury is the creature of the President and under his control. Without saying how far the Sub-treasury scheme, when it shall get into successful operation, will affect the commerce, exchanges, currency, and local banks of the country, I will suggest that it will control them, if at all, by a fixed and determined *rule*—a rule not under the control of the President, but one settled by law, and which must ever remain the same until it is altered by an act of Congress. The power in a bank which makes it dangerous, and which, in truth, gives to it influence, is its ability to issue paper money otherwise than on a metallic basis, make discounts, and receive money on deposit. Give it these, and it will not be, like Archimedes, in want of a place on which to rest its fulcrum; it has this; it has, in addition, all the elements of power and strength, and it needs but the will to apply them, which it is too apt to have, to repel the government itself. Deprive it of these, and it is a shorn Sampson, a fangless serpent, which may have the will, but not the ability, to do mischief. The Sub-treasury possesses none of these powers—not one of them. Another, and not the least by far of the advantages which it claims over a National Bank, is that it is ever subject to the controlling influence of the people. The people, in the person of their representatives, may alter, amend, or abolish it, at pleasure. And this, sir, seems to be in accordance with the spirit and meaning of our free institutions.

But a bank presents the singular anomaly of a creature rising above the creator ; of an institution in a government of the people rising above the people ; for, according to Whig ethics, a bank charter is not alterable, or amendable, except at the discretion of the bank.

I regret, Mr. Chairman, that I have pursued this subject so far. I have said more, much more, than I had intended ; and yet I do not well see how I could have said less ; finding it incidentally connected with the defence of the administration against the general charge of having produced a state of calamity and ruin, and now neglecting or refusing any corrective, I have been insensibly led into these observations. If they produce the slightest effect here or elsewhere, I shall be more than compensated for all the trouble they have cost me. Asking pardon of the committee for the aggression, I return to the bill, and to the arguments of gentlemen who have spoken in opposition to its passage.

I am told that this bill is an executive measure—that it comes here with the impress of the tenant of the White House upon it, and that it does not give evidence of that rigid economy which we were informed in the beginning of this session was to become the order of the day. Again, Mr. Chairman, I appeal to gentlemen to show me in what this bill gives earnest of the extravagance, profligacy, and corruption, of which we hear so much. The gentleman from Pennsylvania [Mr. Ogle] is the only member, of the dozen and one Opposition orators who have spoken on this bill, that has deigned to tell us in what its extravagance does consist. He desires to have our Ministers recalled from foreign courts, and their places supplied by *chargés d'affaires*. But he has not shown us how we are to avoid national dishonor in such an act. What, sir, will be said of a nation of fifteen millions of freemen, who, refusing to reciprocate an honor extended to it by a foreign power, by sending here their resident Minister Plenipotentiary, assigns for it the ridiculous reason “that we are too poor to bear the expense.” I am for economy and retrenchment ; but I spurn them if they are to be purchased at the expense of national pride and national honor. Economy is wanted ; but this is not the way to economize. Retrenchment is demanded ; but it must not, and so far as I am concerned it shall not, commence here. I would, sir, have you commence this work of economy and reform as the physician ministers to his patient—first learning the seat of the disease, and then applying the remedy. If an arm be affected, I would not have you amputate the leg ; and if a man's head be sick, I would not have you pierce his heart. And so, sir, of the body politic. If the disease, the extravagance, the profligacy, of which you speak, exist in the War Department, go there with your remedy : if in the Navy, go there : and if in the Treasury or Post Office, go there. But do not, I pray you, stretch the government on the Procrustean bed, and, under pretence of curing a diseased part, cut off a leg on this side, and an arm on that, until you have so mutilated its fair proportions that it withers and dies, or hobbles out a miserable existence, “the pity of its friends and the scorn of its enemies.” Much, very much, has been said, Mr. Chairman, about “frauds and corruption” in all the departments of government, and it is given out that this bill is its hiding-place. The great recluse, who is ever present, and always invisible, has his cavern, his mysterious and undiscovered home, in this bill. I am rejoiced that the discovery



has been made. I congratulate gentlemen and the country that we are at least so close upon the heels of the many-headed monster; and to prevent every possibility of his escape, I propose that we station some of our best tacticians around this bill, after the fashion of surrounding the Pontine marshes, and that gentlemen go with fire and sword, if they please, and drag this monster from his den. Sir, I rejoice that this grand crusade, after the far-famed "fraud and corruption," is at last drawing to a close. Unlike the Seminoles in Florida, you have traced him to his hiding-place. You have the soldiery under your command, and if the enemy be not now taken it is your fault. Then be not sleeping on your posts—gird on your armor, and let the work of war be heard with the coming in of to-morrow's dawn. Hitherto you have complained that the soldiery were not of yours; that their cause was not your cause; that their feelings and attachments were with the enemy, and that they did not carry on that relentless warfare which the emergency of the hour and the perfidy of the enemy so imperiously demanded. Sir, you can no longer make that complaint. The captain-general of this House (the Speaker) is he whom you have chosen to the high command—and he has not betrayed you. He has chosen the captains and lieutenants and drill sergeants from your own ranks, and, after a campaign of three months, they return, throw down their armor, declare that there is no enemy in the country, and ask to be disbanded. But the gentleman from Virginia [Mr. Wise], whose quick ear detects the slightest sound, and from whose watchful eye no phantom can escape, avers that there is an enemy in the country; that he has seen him and felt him; and with a zeal and energy which does equal justice to his head and heart, he demands, in the name of his besieged country, that the army be not dispersed. Sir, I agree with him, and I will go with the honorable gentleman in his opposition to this abrupt termination of a seven years' war. If for nothing else, in very charity I will do it. For it would be an unkind cut, after all we have heard about this monstrous enemy of our country for the last seven years, to permit gentlemen now to acknowledge that there was indeed no such enemy in the land. Nay, sir, I will do more. I will give my humble aid (and I can say as much for my honorable colleague) to the elevation of the honorable gentleman [Mr. Wise] himself to command. If he is not pleased with the conduct of his honorable friend [Mr. Briggs, chairman of Expenditures, &c.], perhaps he could be pleased with his own mode of warfare. The gentleman has some experience, too. His celebrated *cruise* to New York (on the Swartwout Committee) won for him laurels, green and glorious, but laurels on which one so young and valiant would not be content to recline, when others, still more rich, were to be gathered in the same field. I thought myself that the celebrated Swartwout campaign was a little too Quixotic—had a little too much of the windmill about it; but in this I may have erred; and, in the error, may have done the honorable gentleman some injustice. I am, therefore, the more anxious that he should assume the command, and by an exercise of that chivalry and high bearing, which I know he possesses, terminate the worst of all our wars—the war against "fraud and corruption."

If the gentleman will allow me, and will receive the suggestion in all kindness, I will remark that the country expects him to take the lead

in this war. If my memory does not betray me into error, the honorable member made pledges to the country on this subject—pledges which the country is anxious to see fulfilled. And I again tender my humble services to the distinguished gentleman in enabling him to carry out those pledges.

But, Mr. Chairman, in all sober seriousness, I do beg of gentlemen, either to cease this eternal clamor about frauds and corruption, or go to work and expose them. They have ample verge and scope; they elected their Speaker, and have all the committees organized to their liking; and if this is not satisfactory, if committees of their own friends, whose duty it is to investigate the frauds and expenditures of government, will not perform their trust, let them ask for another organization of committees; or, if they please, for select committees. Let them ask for anything and everything, and I, and the party with whom I am associated, are prepared to give it to them. We ask one of two things, either that they cease their clamor about frauds, corruptions, and perjury, or that they go with committees, organized after their own fashion, and ferret out the evidence of these abuses. One of these things I ask, in the name of the party with whom I act—in the name of the whole country—in the name of justice, decency, and propriety; and from this day forward I want it distinctly understood, that the Whig party have had, now have, and will continue to have, full, ample, and unlimited power to search, winnow, and investigate, every department of this government, from the State down to the Post Office, in all their various ramifications.

When I came here, Mr. Chairman, I expected the first note that would have fallen upon my ear had been a Whig lamentation, that the party in power would not permit investigation; that the most enormous frauds were daily perpetrated, and that the spacious mantle of executive and legislative connivance was thrown over to conceal them; and I left home with the firm purpose, without regard to consequences to my party or to myself, to assist in removing that mantle, and in exposing this perfidy. Imagine, sir, my surprise, when almost four months of the session had gone, to hear for the first time, an anxiety expressed to see these frauds investigated; and how much greater was my surprise, when I heard the very gentlemen who had been loudest and longest in their outcry against these things, the most reluctant to engage in the work of investigation—one gentleman [Mr. Briggs] wishing to have his committee discharged, and another [Mr. Wise] lecturing him for his want of devotion to the country, but still reluctant to take his place. Why, sir, I expected, after the annunciation of the last winter, by the gentleman from Virginia [Mr. Wise], that the clerks of the departments were in the habit of coming secretly to his chamber at midnight, and disclosing to him the enormous frauds that were going on, that no space would have contained him, if he had been denied the privilege of carrying on his investigations; but, instead of this, the gentleman has been as quiet as a lamb, and even now shows no inclination to commence the great work. I submit to the honorable gentleman, whether it is quite patriotic in him, convinced as he doubtless is of the existence of these enormous frauds, not to be more vigilant and industrious in ferreting them out? Or has the gentleman concluded with me, that it was no real thing that

whispered in his ear, but a mere creation of his heated imagination—a kind of spirit, that, like the ghost of Hamlet's father, said:—

“But that I am forbid  
To tell the secrets of my prison house,  
I could a tale unfold, whose lightest word  
Would harrow up thy soul; freeze thy young blood;  
Make thy two eyes, like stars, start from their spheres;  
Thy knotted and combined locks to part;  
And each particular hair to stand on end  
Like quills upon the fretful porcupine.”

Ay, sir; that it was in fact a ghost, I do not doubt; but that it was an honest ghost, I do doubt most essentially.

In connection with this subject, I do not feel inclined to discuss the merits or demerits of the aspirants to the presidency. But there was a remark of the gentleman from Pennsylvania [Mr. Ogle], to which I must allude. He informs us that the President of the United States has been defeated in his native state (New York), for no better reason than that he is “a Northern man with Southern principles.” This remark, coming as it did from an avowed Abolitionist, struck me with peculiar force. I felt deeply and sensibly the truth of the suggestion, and I could but ask myself how it was received by Southern Whigs, acting in concert with the gentleman in his opposition to the President—whether it fell upon their ears like the dulcet vibrations of an Æolian harp, or whether it was not to them like the death-knell of Southern hopes and Southern rights. The South will learn ere long to know her friends, and, learning this, she will find that her bitterest foes do not always live north of Mason and Dixon's line; but within her own borders, living upon her soil, honored with her confidence, and receiving the protection of her laws, are men who hold the hemlock to her lips. Unfaithful friends are more to be dreaded than the most open hostile enemy; and I pray that the South may not fall, if fall she must, by the treachery of her own sons, or, expiring, she may not have cause to exclaim:—

“The shaft that deepest in my bosom went  
Was from the bow pretended friendship bent.”

With the candidate of the Whig party I have nothing to do. I do not possess the power, and if I did, I would not exercise it, of plucking one laurel from the wreath that decks his veteran brow. His official acts are matters of record, about which it ill becomes me to be lecturing those who have as ample opportunity as myself to learn. I pass over, therefore, in silence, his military career. I have nothing to say about the battle of the river Raisin, nothing about the abandonment of Fort Sandusky. With the sacrifice of the gallant Daviess I have nothing to do. The battles of the Thames and the far-famed Tippecanoe were fought; by whom, and with what honor to the country, I leave history to decide. Nor shall I pause to inquire whether General Harrison had an honorable or dishonorable discharge from the army. It is enough that he resigned his commission, and was succeeded in the command by one who brought the war to a brilliant and glorious termination. I will be permitted, however, to remark that it is not in good taste to have opposed General Jackson's elevation to the Presidency because he was a military chieftain,

and to advocate General Harrison's pretensions on the same grounds. Of General Jackson it was said that it were better that war, pestilence, and famine should visit the country, than that a military chieftain should be chosen to rule over it. And yet, by the same men, we are exhorted to vote for General Harrison because he is a military chieftain. Why, say gentlemen, in the darkest hour of our political travail, when clouds and darkness overshadowed the land; when cowardice and treachery had brought disgrace upon our arms, and clothed this broad land in mourning; when the eyes of the whole country were anxiously looking for some redeeming spirit, Harrison came forth; he rallied to the rescue; he changed our mourning into public rejoicing; he raised the tattered star-spangled banner from being soiled and trailed in the dust, to be borne aloft amidst the

“ Shock, the shout, the frown of war ;”

that he wrung the laurel from the bloody fangs of the British lion, and wove it in the glossy plumage of the American eagle, and sent her soaring through the skies, the glad harbinger of glory and of victory. All this may be true, but if it is, history has done the general exceedingly great wrong, not to have recorded the facts, or to have done it so bunglingly that another has received the homage of a people whose gratitude should have been bestowed on him. But as military services do not always afford the best evidence of a man's qualification for the presidency, may I not be permitted, with proper respect to the general and his friends, to inquire what are his civil claims? We present a candidate whose opinions are clearly defined, and everywhere understood. You attack the errors of those opinions, but you deny us the privilege of either concurring in, or dissenting from the opinions of General Harrison, because you will not let us know what those opinions are. We are gravely informed that the great Harrisburg convention did not deem it prudent to make any general declaration of the opinions and principles of the opposition party; and that the committee into whose hands the candidate of the party has been placed for safe keeping, have determined that he should make no more disclosure of his opinions, whilst occupying his present position. I venture the assertion that this is the first time in the history of this government, that any aspirant to popular favor has taken the broad ground that he would make no declaration of his opinions to friends or foes, during his candidacy. It does seem to me, Mr. Chairman, that gentlemen put a very poor estimate upon the intelligence of the people, whose suffrages they seek. Instead of coming out with a bold and fearless declaration of their opinions and sentiments, in imitation of that “time-serving, wire-working, non-committal candidate of the Republican party,” they deem it most advisable to keep their opinions concealed; and, as if they thought the people a great booby, who could be cajoled and flattered with sweet cakes, candies, and sugar plums, they discourse him most eloquently about distress, log-cabins, crackers, and hard cider. And who, sir, is it that is keeping up this perpetual clamor about “log-cabins and hard cider?” Who, sir, but the lords, aristocrats, and nabobs of the land; men, who live themselves in marble palaces, and drink the best wine that France ever produced; who use the people at elections as a farmer does his horse, to perform a

drudgery, and then to be turned out to graze until he is wanted again, and again to be caught up by shaking a bundle of hay, or pounding on a cider barrel. Sir, I demand of gentlemen whether anything is known of the principles or opinions of General Harrison? whether anything is urged in his favor, except that he lives in a "log-cabin, and drinks hard cider?" And are these qualifications that befit a man for the presidency? If so, sir, I congratulate my colleague and myself that we represent more than twenty-five thousand freemen, any one of whom is qualified for the first office in the gift of this great republic; for they live in log-cabins, in fact, cabins unlike the general's—which, in sooth, looks very like a splendid country mansion—but the real thing, built of small logs, and clap-boards; and, though our constituents do not drink hard cider (thank God, they are a little above that), they can boast of as signal service to the country in quaffing a few glasses of old whiskey; and if gentlemen really think that these are the only qualifications necessary for a President, I stipulate, as a matter of economy, to furnish Presidents from my state for the next five hundred years, for five hundred dollars apiece. In this, I trust the gentleman from Pennsylvania will go with me, since it is economy on a much more extensive scale than that of supplanting our foreign ministers. I say nothing of General Harrison's political opinions, for the reason that they are veiled in mystery, or have been expressed in such dubious language as to give no definitive idea of what they were. I have a word or two in conclusion, Mr. Chairman, to say in regard to a practice that has obtained very generally in this House, and which is justly esteemed throughout the country as one of bad moral and political tendency, not likely to produce any good; and out of which grow most of our personal broils and disasters. I allude, sir, to the practice of assailing, without reason, the personal and private character of political opponents, and more especially the character of the distinguished men of the country. The character of our great men belongs not to this House or this Congress, but to the whole country. It is the pedestal upon which is built the fairest fabric that human wisdom has ever devised. It is the pillars, the arches, in truth the edifice itself, of our republican government; destroy this, and the whole fabric totters from its basis, and crumbles into atoms. Rome owed her greatness to her Senate, and Greece to her philosopher. In more modern times the French Chamber of Deputies has given tone and energy and power to a nation's character. England's bright escutcheon has been rendered still more bright by the eloquence and energy of her sons; and America, young, happy, proud America, when she has run the full race of a nation's pride, when, having filled the measure of her goodness and greatness, baffled every difficulty, and outstripped all competition, she sits quietly down upon the summit of her peculiar fame, far above the nations of the earth, she calls the Bissett of the new world to record her history; she will bid him write upon its fairest page the names of her Calhouns, her Clays, her Websters, and her Bentons, for to these will she be indebted for her success, her greatness, and her glory. Sir, when I contemplate the character of the distinguished son of Massachusetts, I do it with pride and exultation. Differing with him in political sentiment as wide as the extremities of earth, I can, nevertheless, do him that justice which his greatness

demands. He is an American, and as an American do I honor him, and I envy not that heart whose contracted limits embrace nothing but its especial favorites. Look upon this man, sir; how calm, and yet how great; how like the deep and placid lake that never moves but in a storm; and then, foaming and casting high the billows of passion, sentiment, and wit, he seems from the very bottom of his soul to be throwing up the collected contents of a thousand years. And the great orator of the West, he in whom nature has been pleased to blend all that is grand and peculiar—see how, like the great father of waters, he moves on in sullen, solemn grandeur, with ever and anon a ripple or a spray, a gentle heaving of the water's surface, a thing that you may look upon with awe, and yet with admiration—one of nature's noblest, greatest works, a man whose name is commensurate with the ends of the earth, and whose fame is as boundless as eternity itself. Entertaining no sentiment in common with him, I view him as only an American statesman, and as an American I am proud that America has given birth to such a son, and no party will or discipline shall deter me from saying so. I turn, Mr. Chairman, from the contemplation of these characters, to pay the humble tribute of my admiration to one nearer my heart—one whose feelings and sentiments are in unison with my own—one who comes from my native land, from my own loved and sunny South. And how—how, sir, shall I speak of him—he who is justly esteemed the wonder of the world, the astonisher of mankind? Like the great Niagara, he goes dashing and sweeping on, bidding all created things give way, and bearing down, in his resistless course, all who have the temerity to oppose his onward career. He, sir, is indeed the cataract—the political Niagara of America; and like that noblest work of nature and of nature's God, he will stand though all after time no less the wonder than the admiration of the world. His was the bright star of genius that in early life shot madly forth, and left the lesser satellites that may have dazzled in its blaze, to that impenetrable darkness to which nature's stern decree had destined them; his the mighty magazine of mind, from which his country clothed herself in the armor of defence; his the broad expansive wing of genius, under which his country sought political protection; his the giant mind, the elevated, spotless mien, which nations might envy, but worlds could not emulate. Such, sir, is John C. Calhoun; such the object of gentlemen's denunciations; such the man whose motives are impugned and whose actions are derided. Such an one needs no eulogium from me, no defence from human lips. He stands beneath a consecrated arch, defended by a lightning shut up in the hearts of his countrymen—by a lightning that will not slumber, but will leap forth to avenge even a word, a thought, a look, that threatens him with insult. The story of his virtuous fame is written in the highest vault of your political canopy, far above the reach of grovelling speculation, where it can alone be sought upon an eagle's pinions, and gazed at by an eagle's eye. His defence may be found in the hearts of his countrymen—his eulogium will be heard in the deep-toned murmurs of posterity, which, like the solemn artillery of heaven, shall go rolling along the shores of time, until it is engulfed in the mighty vortex of eternity. Little minds may affect to despise him; pigmy politicians may raise the war cry of proscription against him: be it so; insects

buzz around the lion's mane, but do not arouse him from his lair. The confidence of Americans will never be shaken in the wisdom of this man's acts, nor, sir, in the patriotism of his counsels. Imprecations will add but other links to the mighty chain that binds him to his countrymen; and each blast of your war trumpet will but awaken millions to his support. His firm adherence to principle, in defiance of every danger, and his noble sacrifice of personal prejudice upon the altar of his country's good, whene'er his country's good has demanded the sacrifice, has placed upon his brow a wreath of imperishable glory which there shall flourish in immortal bloom. Who, sir, is John C. Calhoun, and where is he? the noblest son of the sunny South—her genial rays have awakened a feeling of patriotic devotion upon the altar of his heart which the ice-bound bosom of your Eastern serf has never felt. He stands, sir, like the sun-gilt summit of some lofty mountain, around whose base the angry clamors of petty politicians waste themselves in vain—

"Like some tall cliff, whose awful form  
Swell from the vale, and midway leaves the storm :  
Whilst round his base the rolling clouds are spread,  
Eternal sunshine settles on his head."

Why, sir, it was but the other day that I heard him sneeringly (rather sneeringly, I thought, for one who had been his friend) denounced as a Loco Foco. What, sir, John C. Calhoun a Loco Foco! If so, I desire for myself no more honorable appellation. If, in the eloquent language of Carolina's most eloquent son [Mr. Pickens], that man, the grandeur of whose soul and the splendor of whose genius breathed not only inspiration into the holy cause of freedom, but throws a halo of glory around those burning pages which he devoted to American liberty, be indeed a Loco Foco, then, sir, let me ever rejoice in the thrice hallowed name of Loco Foco. Fling out that banner to the breeze—inscribe upon it the deep-detested name—and, my life upon the issue, thousands upon tens of thousands, nay, sir, millions upon millions, from every clime, of every creed and color in the universe, will hurry to its standard, and if it fall they will fall with it. Nor, sir, will they deem it else than immortal honor to be shrouded in its folds. If the principles of John C. Calhoun are the principles of the Loco Focos, then, sir, are the Loco Focos the friends of the Constitution and equal rights, the opponents of tyranny in all its forms, the friends of law and its just administration, and the uncompromising opponents of every species of oligarchy, whether sole or aggregate. Then, sir, do they take the illustrious Jefferson for their political Mahomed, and the doctrines of '98 for their political Alkoran. With these professions and these practices, I, sir, am ready to enter with them the Sanhedrim of their political faith, and commune with them as brethren of the same church. For, sir, in these principles, which you tell me are the principles of the Loco Focos, I recognise the principles of Virginia, the principles of liberty, the principles of right—principles which, forty-five years ago, sprung from the master-mind of Jefferson, like Minerva from the brain of Jove, all radiant in the armor of liberty and truth. They wanted but a name to stamp them with the genius of their author, and dedicate them to the eternal cause of human liberty. They have that name. They have it, sir, in your deeply-damned name of Loco Foco. Let them wear it through all after time,

fit emblem of their worth—fit memento of their illustrious origin. Do you, sir, love your country; go practise upon these principles. Would you perpetuate her institutions; go practise upon these principles. Would you have the star of her glory be onward in its course to the upper sky; go practise upon these principles. Would you have the winds of Heaven saluting her flag, and the extremities of earth acknowledging her name; go practise upon these principles; and you may perpetuate the honor, and power, and glory of this country, until the last trump of time shall be sounded upon the confines of vast eternity, until the four angels, that stand on the four corners of this continent, shall, with one accord, lift their voices to Heaven, proclaiming “peace on earth, and good will to all men.”

[Mr. Brown having concluded, Mr. Jenifer, of Maryland, rose to make certain inquiries of the gentleman from Mississippi [Mr. B.]. He asked if he was right in supposing that the gentleman who had just resumed his seat was “General Albert Gallatin Brown?” Mr. B. nodding assent, Mr. J. read an extract from a newspaper, to the purport that Mr. B., in his electioneering canvass, had declared that he would abandon the Sub-treasury if Mr. Van Buren abandoned it; and asked whether the facts, as set forth in the paper, were correct; and he would further inquire whether the gentleman [Mr. B.] had not been the advocate of the post note system in Mississippi—a system which had brought bankruptcy and ruin on that state?]

Mr. BROWN responded. He had used language similar to that read by the gentleman from Maryland [Mr. Jenifer], but with no intention of conveying the idea which seemed to have been produced on the gentleman's mind, that he [Mr. B.] was either a lukewarm supporter of the Sub-treasury before the people, or that he was subservient to the will of the Executive. His remarks had been garbled. What he had intended to say at the time alluded to, and what he believed he was understood as saying by all who heard him with impartial ears, was, that if the Sub-treasury was abandoned by the prominent members of his party, it would lose its chance of success; and having lost this, he would not disturb the public mind by agitating a question no longer open for discussion. Mr. B.'s own opinion would remain the same, however, whatever might be the views of the President, or other gentlemen.

As to the gentleman's second inquiry, Mr. B. said, when the subject was first brought to the notice of the Mississippi legislature, by a Whig executive, he had yielded to it a reluctant support, believing that the system would end in disaster. It was strongly urged, however, by those who pretended to more financial skill than himself, and was finally adopted, and proved, as he had supposed it would, a most signal failure; and for the last several years, Mr. B. had been among those who took the lead in opposition to the whole post note system; and it was due to himself to say, that had the system been abandoned when it was proved to have failed, and when he and his friends gave it up, none of the disasters would have befallen the state to which the gentleman has alluded, and which he is right in supposing had their origin in the system as practised in Mississippi.

Mr. JENIFER asked if Mr. Brown had not, as late as April, 1839, given a vote in favor of post notes.

Mr. BROWN positively denied having given any such vote.



## FEES OF UNITED STATES MARSHALS AND CLERKS.

Remarks in the House of Representatives, Monday, February 22, 1841—In Committee of the Whole on the General Appropriation bill, on the amendment of Mr. THOMPSON of Mississippi, in relation to the fees of Marshals, Clerks, &c.

Mr. A. G. BROWN said the proposition of his colleague was the only one for which he could vote. That amendment proposed to reduce the fees of officers in the District and Circuit Courts of the United States to a standard with the fees of officers performing like services in the courts of the several states; and it further provided that the *fee* bill in the *federal* courts should in all after time conform to the fee bills of the state courts. This was right. The fee bills of the state courts were under the control of the legislatures of the respective states; and there was not, in his judgment, the slightest danger but that the people would always exercise sufficient control over their immediate representatives to force such a regulation of the fees of law officers as should be acceptable to themselves. He believed there was no community in the Government who would object to pay marshals and clerks of the United States courts the same fees that were paid to clerks and sheriffs of state courts; and he was quite certain that no people would be willing to pay more. Pass then the amendment of his colleague, and you would do all that you ought to do—all that the people command you to do on this subject. You leave the *fee* bill in the federal courts to be regulated by local legislation. There was a peculiar fitness in this. Services in some states were worth more than like services in other states. The legislature of New York was the best judge of what the issuance of a *subpoena*, or the service of a *capias*, was worth in that state; and the legislature of his own state (Mississippi) was most competent to adjust all such matters in that state. If Congress undertook to pass a general fee bill, it must necessarily do injustice to some of the states, since that bill, which conforms to the interest of the South, may be much too heavy for the North, where labor is generally much lower; and every one knew it was worth more to discharge the duties of marshal or sheriff, in a sparsely populated country, than in one densely settled. At all events, there could be no harm in leaving this matter entirely in the hands of the respective state legislatures. The proposition of his colleague [Mr. Thompson] proposed to place it there, and to permit it to remain through all after time.

The bill, as reported from the Committee of Ways and Means, he deemed a political enormity. What does that bill propose? Why, sir, *not to reduce the fees*, but to collect from the unfortunate debtor the enormous sums which you have always forced from him with such miserable twaddle as that clerks and marshals are not permitted to retain the money, but compelled to pay it over to the United States Treasury—as though it was a matter of any sort of consequence to the *plundered* man whether the money which you had thus forced from him went into the

pockets of an officer or the vaults of a bankrupt Treasury. For one, if this system of legalized plunder was to be kept up, he desired, so far as his own state was concerned, that the clerks and marshals might have the benefit of it. In that event, meritorious citizens in Mississippi would derive some benefit from your cruelty to the unfortunate; and the aggregate wealth of the state would not be diminished. But pay it into the Treasury of the United States, and what goes with it? It is lost to us and ours for ever. It goes to build up light-houses, harbors, and to make other improvements in your Eastern States; and the gross amount of the wealth of Mississippi is diminished to the full amount of the money thus unrighteously abstracted from the pockets of his indebted constituents, and *strained* through the hands of federal officers into the vaults of the nation. His constituents had asked to be released from this ONER-ous taxation, and you propose to quiet their supplications by taking their money to build light-houses and other things for the benefit of other states. Sir, this is not the relief asked for, and it is an insult to the people thus to respond to their petitions. If you take the money from the poor litigant, let the marshal and clerk keep it. The people of Mississippi had already been forced to pay five times their just quota for the support of Government under the tariff laws and land laws of the United States; and now you propose to levy a tax of seventy-five or eighty thousand dollars per annum, and call it *relief*. Believe me, Mr. Chairman, my unfortunate constituents have had a *surfeit* of just such relief.

But, Mr. Chairman, I have another and insuperable objection to the bill as reported by the committee, or as proposed to be amended by the gentleman from Tennessee [Mr. Johnson], and that objection is one founded on what I deem to be a just and proper construction of the Constitution. If I have read that instrument aright, it secures equality in taxation to all the people of this Confederacy; and what do you propose to do by this bill? Why, sir, to collect off of about two thousand defendant suitors and citizens of Mississippi, *eighty-five* thousand dollars in the way of tax on lawsuits. Of this sum, you propose to give to the marshal ten thousand dollars as a maximum of his compensation, and to pay the remainder into the United States Treasury. Is that equality of taxation which exacts from two thousand citizens of Mississippi, who are so unfortunate as to become suitors in your federal court, a tax of seventy-five thousand dollars, whilst you exempt from similar taxation the remaining thirty-five thousand who are not suitors in that court? Is that equality of taxation which exacts seventy-five thousand dollars from two thousand citizens of Mississippi, and not one cent from the five hundred thousand who live in Ohio? Is that equality of taxation which exacts of me fifty dollars, because I am so unfortunate as to be sued, and yet exempts entirely my neighbor or my brother, who is not sued? Is that equality of taxation which exacts of the unfortunate debtor thousands and tens of thousands, and not one cent from the unembarrassed and unindebted part of the community? And does any man seriously pretend that this will not be the result if this law is passed? Is it not in fact avowed, in all parts of the House, that this will be the result? And have not defences been attempted to be set up for this political monstrosity?

Sir, you have no authority to raise revenue in this way; and if you had, it would be a monstrous abuse of power to exercise your authority. I would not have one dollar of revenue collected in this way;—such ill-gotten gain—gotten in violation of the Constitution—wrung from the unfortunate debtor—coined, as it were, from the *flesh* of a tortured citizen, I should expect to turn to slimy reptiles and to hissing adders, that would besmear the vaults of your Treasury with their filth, and sting, as with a deadly poison, each hand that dared remove them. I cannot, I will not, vote for any maximum compensation—to do so is to fix a contingency on the suffering, of which this ill-gotten treasure enures to the nation. You have no authority to fix any such contingency. You have no authority to take one dollar of money collected in this way, though there were millions wrung from the unhappy citizen. I will vote for the proposition of my colleague, and I shall do so with great pleasure; but when this is done, I shall have done all that I can or will do. I shall not be accused of voting against a *maximum* through party motives, for before this law goes into effect—if it passes at all—there will probably not be a political friend of mine in any office in the republic within the gift of the Executive, that is worth asking for. I claim to give the vote which I shall give, against the original proposition, and against the amendment of my friend from Tennessee [Mr. Johnson], in obedience to my sense of justice to my constituents, and my duty to the Constitution, and to these alone.

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## ADDRESS

TO THE PEOPLE OF MISSISSIPPI, PREVIOUS TO THE GUBERNATORIAL  
ELECTION IN 1843.

FELLOW-CITIZENS: Having been presented to you by a portion of my political friends, as a candidate for Governor, I beg to trespass so far upon your attention as to declare succinctly the principles by which I shall be governed in the event of my election. Aware that the chief magistrate of a single state can exert but a limited influence over the general politics of the country, I am also aware that such officers are seldom chosen but in reference to their views on questions of a national character. Not being responsible for the establishment of this custom, long recognised and practised upon as strictly orthodox by both political parties, no apology can be expected from me if I conform to it.

I have mingled some little in the party contests of the day, and most of you are aware that I claim to be a Republican in that sense in which the term was used and understood in 1798, '99, and 1800. Unfortunately, however, this simple annunciation nowadays proves nothing, since men of all creeds claim the proud title of Republicans of '98. The men who were most vociferous in their denunciations of Republicans, when Federalism was in the ascendant, and down to the very hour of the final overthrow of that monstrous political heresy, are now loudest in their pretensions to pure and undefiled Republicanism. Within the

last three years, I have heard the man who first moved the resolutions that convened the Hartford Convention, declare on the floor of Congress, that he was every inch a Republican, and that Thomas Jefferson was the incarnation of *Federal Loco Focoism*, and it is notorious that many of the bitterest revilers of Jefferson, Madison, Taylor of Caroline, and the Spartan band, who made Virginia the Thermopylæ for resisting the march of federal millions, are now rejoicing in the title of Republican *Whig*. Fortunately there's nothing in a name. If I were required to define my political creed, in two words, they would be "Madison's report;" for, in my judgment, that paper, containing as it does a luminous exposition of the principles set forth in the Virginia resolutions, is the very quintessence of Republicanism. The Kentucky resolutions went a step further, and them, too, I endorse.

I am for the currency of the Constitution. I am a hard-money man, a bullionist. There is no grant in the Constitution for the erection of engines, mills, and other machines for the manufacture of paper money. The framers of the Constitution were hard-money men—they had profited by the sad example of England and France in the seventeenth century, and the no less melancholy fate of the colonies, growing out of their connection with continental notes and other paper currencies, and they determined to exempt the new government from such baleful influences, and declared that it should have the power to *coin* money and regulate its value, and then stopped—and nowhere is there given to this government of their creation, this government of limited powers, any authority over the currency, other than that just mentioned—to *coin* money and to regulate the value of foreign *coin*. Paper money is unknown to the Constitution. Our forefathers purposely excluded a thing of such contaminating influence from an instrument which they intended should always be pure.

The government of the United States is one of limited powers. It can do no act except what it is specially authorized to do, or such other acts as are *absolutely* necessary in carrying out the expressly delegated powers. By its principles all political power is inherent in the people, to whom the law-makers are immediately responsible. These last, consisting of a President, Senate, and House of Representatives, have plenary authority to legislate within the scope of the Constitution, whilst they respectively are in office, and their successors have the same powers. No one body of legislators has the constitutional ability to usurp the power of legislation beyond the period of their election—and it follows, of course, that if the late Congress had passed a law and given to it a certain prospective operation for a definite period of time, and such law should prove obnoxious to the next Congress, they would have the right to *repeal* it, whether it was a simple enactment or assumed the more imposing form of a charter or act of incorporation.

The government of the United States ought to confine its operations to the purposes of its creation—and doing this it will legislate on such subjects as all the states are equally interested in. It will so legislate as not to oppress any one or more of the states, and it will strictly abstain from all interference with matters merely local in their character. It will collect its debts and pay its dues in the currency of the Constitution, and abstain from all entangling, corrupting, and dangerous connection with the local currency of the country. It will use the

national treasury for national purposes—neither squandering it on works *local* in their character, nor dividing it with a prodigal hand among the states in unequal and unjust proportions, in the vain hope of buying the great states to support a particular aspirant to the presidency, at the expense and even pauperism of the small states. It will so levy taxes that each state, and every section of each state, shall bear equally, as near as may be, the burthens of government. It will foster all our various interests, agricultural, commercial, mechanical, manufactures, professional, &c., but it will *protect* no one at the expense of any one, or all the rest. It will protect our soil from the dishonor of foreign pillage or invasion, and it will, if need be, with all the energies of this mighty nation, protect our glorious flag from the dishonor of being rudely touched by the insolent myrmidons of Great Britain. It will demand for itself that respect and honor from the other nations of the earth, to which a country, boasting of seventeen millions of freemen, is justly entitled—and I trust in God we never shall again consent to *treat* with Great Britain or any other nation for soil which is unquestionably our own, and purchase a dishonorable peace by the surrender of our territory. “The honor and independence of my country are the gods of my idolatry,” and if war is ever to be averted, at the expense of these, then I say, let it come, let it come.

On the subject of our state affairs, I am more particularly called upon to address you. The question of the Union Bank bonds, and their payment, is the first in point of magnitude, and this I will first consider. The legislature, at its session in January, 1841, resolved that the state would pay this debt—from this decision an appeal was taken to the people, and in November, 1841, after months of patient investigation, that tribunal pronounced its judgment against the bonds. I supposed that an intelligent people knew what they were about, and that when they spoke they meant what they said; but other gentlemen think differently; and the people, in the approaching canvass, are to be invoked to reverse the solemn decision pronounced by them in 1841. Will they do it? is a question which awakens inquiries at once vital to the Constitution and to the future prosperity of the state.

I believe that the pretended bonds, issued on account of the Mississippi Union Bank, find no sanction in the Constitution, but that they were issued in violation of that sacred instrument, which every good citizen in his heart is sworn to support, and that on this account, if for no other reason, there never did exist any sort of obligation, moral or constitutional, on the part of the state, to pay these bonds, or any part of them.

I believe that the bonds were not sold in conformity to the pretended law under which they issued, and I am of opinion that an undertaking to pay them would be to sanction a most dangerous infraction of the Constitution, and to lay the foundation for the final ruin and bankruptcy of the state. Be not deceived, fellow-citizens, by those who tell you that this vast debt, with all its accumulating interest, will be paid without resort to taxation. As certain as that there is a God, if any payment is ever made, it will be from the hard earnings of our people. You will be told that the Union Bank will be put in *liquidation* for the payment of this debt: believe me, fellow-citizens, the chief assets of that

concern have already been liquidated, and the little that remains is fast evaporating under the genial influence which surrounds it.

No one at all conversant with the affairs of the Union Bank, believes it competent to pay the interest on the debt alone, to say nothing of the principal. But so far as it will pay, I am not only willing, but anxious, to see it applied. This being done, I am opposed to any payment by taxation—and I shall continue to resist any acknowledgment of the debt or promises to pay the balance that may be due after exhausting the assets of the bank. Such an acknowledgment and promise will impose an obligation on the people to submit to taxation, from which there will be no escape; and those who vote directly or indirectly for the assumption of the debt, ought to know the consequences which are to follow, and be prepared to meet them. No one of my competitors takes the lead of me in wishing to see the assets of the bank turned over to the bond holders, but they are both for taxation to pay the balance that may be due after this is done, and I am opposed to it—and this is the chief difference between us.

On the subject of the Planters' Bank bonds, I have only a word to say. They ought to be paid, and it seems to be conceded, on all hands, that the state has ample means for the payment of these bonds, without any resort to increased taxation. These means I am strongly in favor of seeing applied to the payment of the debt as speedily as possible.

I think the revenue laws might be so amended as to render taxes more equal than they now are, and at the same time augment in some degree the receipts into the treasury. I will sanction any measure intended in good faith to effect these objects, but I will, in the event of my election, resist any increase of taxes, having for its object the immediate or ultimate payment of the bonds, unless there should be a clear and unequivocal demonstration of popular opinion in favor of it—and I have not the remotest idea I shall ever see any such demonstration.

The annual expenses of the state government may, in my opinion, be reduced by wise legislation at least fifty thousand dollars below what they now are. To effect this, the number of circuit judges and district attorneys ought to be reduced. There should be but one session of the legislature in two years, and the state ought to have a day in court, fixed by law, so that in all cases in which it is interested, the witnesses might be in attendance at the proper hour, instead of attending, as they now do, in some cases, from day to day, for an entire term, at vast expense to the state.

It is worthy of the deepest consideration, by the people of the state, whether there might not be a salutary reform in the penitentiary system. At present the labor of the convicts is so employed as to come in direct competition with a large and meritorious class of our citizens. It certainly ought not to be the policy of the state so to cheapen the price of the mechanics' labor as virtually to drive them from their trades. Besides, it cannot be otherwise than revolting to the sensibility of honest mechanics to have from ten to fifty convicts discharged from the penitentiary annually, with the same trade as themselves, to become their rivals for employment. It is calculated, too, to bring discredit on that entire class of our population, since no one will be able to tell, after a few years, whether a mechanic, presenting himself where he is unknown,

has learned his trade in the penitentiary or as an apprentice to some honorable member of the trade. I presume that no one thinks that the penitentiary is a proper place to educate lawyers and doctors?

I think this state ought at least to make an experiment on the manufacturing of rope and cotton bagging, from coarse cotton, with the view of converting the entire labor of the convicts to the fabrication of those articles. If the experiment succeeds, and there can be no doubt of it, it will open a new market for our refuse cotton, and save to the state annually many thousand dollars, now paid away for bagging and rope, and at the same time be the means of protecting a class of our citizens from wrong and injustice, than whom there is none more deserving of public consideration.

The subject of education is one which has already been too long overlooked in this state. The seminary fund has been strangely neglected. If I should be elected, it will be an object with me from the day of my installation, to procure the application of this fund to the subject for which it was intended. If the state is ever to have a seminary of learning established on liberal and enlightened principles, there can never be a better time than the present. The best service this generation can render those who come after us, is to bequeath to them schools, academies, and colleges. In addition to the seminary, I should be pleased to see a well regulated system of free schools established, and *if we are to be taxed* for any other purpose than an economical support of government, I greatly prefer that it shall be for the establishment of schools, in which every poor white child in the country may secure free of charge, the advantages of a liberal education. The history of New England and her enlightened population, is a most striking commentary on the advantages of the free school system.

I am opposed, for many reasons, to seeing the five hundred thousand acres of land lately given to the state, by the United States, converted to any other purpose than that contemplated by the donor, to wit:—The erection of levees on the Mississippi, the clearing of other navigable rivers, and the improvement of our market roads. These are great objects, and ought not to be abandoned, now that we have the means of carrying them out, but if the *faith of the state* is to be violated by a failure or refusal to carry out the terms of the contract with the federal government, in regard to this land, let us not add to the act of bad faith the folly of giving (as some gentlemen propose) the land to foreigners in payment of debts which we never owed, but let us apply it to purposes of education. In this way we may do something of lasting service to the country—something of service to this generation—something for which posterity will bless us. It is said that the next or succeeding generation will pay "the bonds" if we do not. Let us give them the means of education, so that they may at least understand their rights, before they undertake to pay bonds which their fathers declared were unconstitutional and void.

I am for strict justice in the collection of taxes, rigid economy in the use of the public money, and a constant watch over all receiving and disbursing officers. Some officers will be faithful without watching, but experience has shown that to make all faithful, no one should be allowed an opportunity to abuse his trust, without certainty of detection and

punishment. The certainty of punishment will alone deter malefactors from the commission of crime—on this account the pardoning power should never be exercised by the executive, except in extreme cases. The court and jury, who try the accused, are the proper persons to pass upon the law and the facts of his case, and after conviction, punishment should seldom be arrested by executive clemency. Perhaps the only safe rule would be to pardon only when the discovery of new facts renders it extremely probable that a different result would have followed if they had been known before the trial.

Every act of the legislature, which comes in conflict with the clearly defined constitutional opinions of the executive, ought to be met by a veto, but all *doubts* should be solved in favor of the constitutionality of legislative action—and I can scarcely conceive a case where the exercise of the veto power could be justified on the ground of mere inexpediency. The representatives of the people are, or ought to be, the best judges on subjects of this kind.

I have undertaken to give you a brief outline of my opinions, without attempting an argument to sustain them. These I have reserved for the stump, where I confidently anticipate meeting many of my fellow-citizens before the election. The only earnest which I can offer, that I will govern myself according to the line here chalked out, is the pledges given by me in former times and which I am not conscious of ever having forfeited. In conclusion, fellow citizens, I have only to remark that if you elect me, my time and talents shall be assiduously devoted to the public service. I will discharge my duty honestly at least, and with a sincere desire to promote my country's interest. Happy if I should be enabled to give satisfaction to those who elect me, and doubly so, if in all things I can succeed in sustaining the majesty of the Constitution and laws.

Your fellow citizen,

ALBERT G. BROWN.

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## FIRST INAUGURAL ADDRESS,

DELIVERED JANUARY 10, 1844, BEFORE A JOINT MEETING OF THE TWO HOUSES OF THE MISSISSIPPI LEGISLATURE.

**FELLOW-CITIZENS:** The people of the state having elected me to the office of governor, I appear before you for the purpose of taking the oath prescribed by the Constitution, preparatory to entering on the responsible duties assigned me by the laws of the land. In doing so, I will conform to an ancient custom, rendered obligatory by the example of others, and submit to the country an outline of my views, and of the principles which are to govern me in my official conduct.

It shall ever be my purpose to act completely within the powers delegated to the executive. I will avoid all encroachments upon the other separate departments of government; and believing that the pros-



perity of the country demands it, I will resist, at all times, the slightest invasion of the rights and powers of the department under my control. The preservation of the Constitution, and the enduring interests of the citizen, demand that the lines which divide the three great departments of government, should be strictly observed. In my efforts to enforce their observance, and in all my exertions to preserve unimpaired the great and essential principles of free government, I anticipate the united support of the whole country. For whatever dissensions may exist among ourselves, and however heated our feelings may become in a political struggle, when the contest is over, and the result known, all of us bow with becoming respect, to the will of a majority; and the defeated, no less than the successful party, feel a laudable anxiety to see the government administered with justice, and with scrupulous fidelity to the Constitution.

In governments like ours, where the people rule with no other limitation to their powers, than those imposed by a written constitution, we cannot too often recur to that instrument, nor avoid with too much care, any infraction of its sacred provisions. The people, when correctly advised, will always do right. Having no motive to err, and the strongest possible incentive to act with justice and fidelity, their unbiassed opinions may always be trusted. But from a great variety of causes, peculiar to popular governments, there is danger that majorities will sometimes be led into excesses. The limitations to their powers imposed by the Constitution are, on such occasions, the only safeguard to the rights of the minority.

If these limitations be removed, no matter whether by the consent of the weak, or the unbridled will of the strong, the minority will sooner or later become the mere serfs of the majority, and our government, now free and happy, affording protection to us all, must gradually degenerate into the worst of tyrannies,—a tyranny knowing no law but the will of a licentious majority—affording no protection save that which the powerful may deign to give.

We are admonished by considerations such as these, to refer continually to the instrument itself, and to invoke its silent but potent aid in maintenance of our rights. However much we may differ as to one construction of the Constitution; in whatever light we may regard certain rights claimed by one party, and denied by another, we must all insist, upon carrying out its positive commands, and obey with fidelity, its no less positive prohibitions. That temptation may sometimes be thrown in our way—that we may be assailed in the faithful discharge of our duty by the ignorant or vicious, is not to be denied. But shall we, therefore, be less faithful to our Constitution, or ought we not rather to guard it with a more vestal care?

Let us make all needful sacrifices to secure the good opinion of others. We may enlighten the ignorant, and remonstrate with such as knowingly do us wrong; but sooner let us abandon our hearths and our firesides, than suffer the slightest infraction of this palladium of our liberties. I have been led into these reflections, by the too common expression that although the Constitution was manifestly violated in the issuance of the Union Bank bonds, yet, inasmuch as a *majority* of the people approved it at the time, therefore the *whole* people must submit to taxation to pay

them: thus declaring that the will of the majority, and not the Constitution, shall be the measure of power, and virtually making one acknowledged wrong the pretext for committing a still more grievous wrong. But how, it may be asked, will the Constitution be violated in levying a tax to pay a debt, even though that debt was contracted in violation of the Constitution? It has been assumed that the taxing power resides with the legislature, and that they may exercise it for any purpose within their discretion, not positively prohibited by the Constitution. This construction of the powers of the legislature, is by far too comprehensive. Under it, the legislative department may tax *ad libitum*. No such authority, in my opinion, was ever conferred. The legislature may rightfully tax the citizen to defray the economical expenses of the government, and to pay the *debts* of the state; but it would be going far beyond the authority delegated to them to levy taxes to pay the debts of any one, or all the corporations within the state. If the Union Bank bonds constituted a debt against the state, then would it be constitutional to tax the citizen to pay them; but that these bonds do not constitute such a debt, will, I think, be made sufficiently manifest by a candid review of their origin, and of that clause of the Constitution under which they could only issue.

When, in 1832, the people of Mississippi met in convention for the purpose of re-modelling their form of government, and of adopting a more perfect constitution, among the most interesting of the subjects which addressed themselves to their consideration, was that of the public credit. They saw the English people laboring under a debt, which, commencing in the reign of William III., had grown in the short space of one hundred and forty years, to the enormous sum of three thousand millions of dollars. They saw the French, no less fortunate in regard to their public debt, actually compelled, after the most painful privations, to throw off more than three hundred millions, issued on account of the public faith. They saw the states, in the new and in the old world, in debt beyond their ability to pay. They saw at least sixteen, out of the then twenty-four states of our own Union, contracting heavy liabilities for banking purposes, and the most visionary schemes of internal improvement. Duly impressed with the vastness of the subject, and at once resolving to avoid the whirlpool which had swallowed up so many states, they solemnly declared (see 9th sec. 7th art. Con.) that "no law should ever be passed to raise a loan of money upon the credit of the state, or to pledge the faith of the state for the payment or *redemption* of any loan or debt, unless such law be proposed in the Senate or House of Representatives, and be agreed to by a majority of the members of each House, and entered on the journals with the yeas and nays taken thereon, and be referred to the next succeeding legislature, and published for three months previous to the next regular election in three newspapers in this state; and unless a majority of each branch of the legislature so elected, after such publication, shall agree to and pass such law; and in such case, the yeas and nays shall be taken and entered on the journals of each House;" and the conclusion of the declaration of rights, declares that "all laws contrary to the Constitution, shall be void."

In 1837, the legislature passed a bill entitled "an act to incorporate the subscribers to the Mississippi Union Bank." The 5th section of

this bill proposed that in order to *facilitate* the said Union Bank in the loan of her capital of fifteen millions five hundred thousand dollars, the faith of the state should be pledged, both for the security of the capital and interest. By the 2d section of the bill, books of subscription for the entire capital of the bank, were to be opened in the manner there pointed out, and the subscriptions when made, are, by this second section, declared to be for the purpose of *securing* the loan of fifteen millions five hundred thousand dollars. By the 4th section of the bill, the owners of real estate who are citizens of the state of Mississippi, are the only persons entitled to subscribe for stock. By the 8th section, subscribers are required to secure their stock by mortgages on real estate and other property, to be in all cases equal to their respective subscriptions; and this is declared to be for the purpose of *securing* the *capital* and *interest* of bonds for fifteen millions five hundred thousand dollars, which were authorized to be issued by the 5th section. The 30th section requires the governor to execute to the bank, from time to time, bonds in amount proportional to the sums subscribed and *secured*, as required by the charter.

Such are some of the essential provisions of this bill, now called the original charter of the Mississippi Union Bank. Upon its introduction, no one doubted, as it proposed by the 5th section to pledge the faith of the state, that it came within the purview of the Constitution, and that it was therefore necessary to carry it through all the formula required by the 9th section of the 7th article of that instrument; until this was done, its vitality was held in abeyance by the Constitution. It was required, among other things, to be published for three months in three newspapers of the state, previous to the next regular election; and for what purpose? To my mind, fellow-citizens, there could have been but one purpose,—that to enlighten the people fully as to the whole scheme—the amount of money to be borrowed—the mode and manner of its disposition—how it was to be paid back—who was to receive the profits—and above all, what indemnity the people were to have for their plighted faith. The yeas and nays were required to be spread upon the journals; for what? that the people might see who was for it, and who against it. This law, as originally passed, was a cunningly devised scheme for a bank, and one singularly calculated to captivate the public mind. By it, as published, among many other things, the people were informed that a Union Bank was to be established, with a capital of fifteen millions five hundred thousand dollars; the whole capital was to be subscribed by individuals, and secured by mortgage on real and other property; *and this being done*, the governor was to execute bonds and deliver them to the directors of the bank, for the purpose of *facilitating* the institution for the required capital.

This institution, then, in which the state had no sort of concern, except so far as to loan her credit to individual stockholders, who had amply *secured her against loss in the security given for their stock*, was the one which the people were assured was to be established, and to it they were asked to give their sanction. *They did so*, and the legislature, as in duty bound under the Constitution, repassed this law in every line, word, and syllable as it had passed before. If they had here paused there would have been no difficulty as to this vexed question of the bonds—

the constitutional requirements had all been fulfilled, and if the money had been borrowed *under the provisions* of this law, the state would have been constitutionally bound to return it, though every dollar of it had been sunk in the ocean on its passage home. But in ten days after the second passage of this law, they passed another act, which it is now attempted to blend with and make part and parcel of the original act, though the fact is not denied that this second substantive, distinct act, has never undergone a solitary one of the constitutional requirements. By this second act the state is made a stockholder for five millions of dollars, and the governor is required to issue bonds for five millions, to pay for it. Thus the state agrees to *facilitate* the Union Bank for a loan of money after she is amply indemnified against loss by the individual stockholders in the concern, and forthwith, without consent, and as I assume without her knowledge, she is made stockholder for five millions, and to pay for it her bonds issued for that amount—and before anything else is done the bank goes into operation at the risk and upon the sole credit of the state. Is this what the state (and when I say the state I mean the people) agreed to do? Is there no difference between aiding the stockholders (or in the language of the charter, *facilitating* the bank), by loaning them the credit of the state, and making the state assume the whole enterprise herself? The argument that the people's representatives did this, will not do. The representative has not all power. He has no more right under the Constitution to issue, or cause to be issued, bonds in the name of the states, without first obtaining the consent of the people, than a man employed to labor would have by indenture, to sign away his employer's liberty for life.

And this being the case, when the people gave their consent to the issuance of bonds, the legislature was bound to issue them, or cause them to be issued upon such terms and under such limitations and restrictions as the people may impose. And with as much propriety might it be said that the people having consented to the issuance of fifteen millions of dollars on the credit of the state, the legislature would have a right to order issued one hundred millions, as to say that under authority to issue bonds after ample indemnity has been given the state, the right was conferred to issue bonds upon the sole credit of the commonwealth, and without any sort of security or indemnity. Does not every one perceive that it is one thing for the state to "*facilitate*" individual stockholders of a bank by a loan of her credit after those individuals had secured her against loss—and that it is a very different thing for the state, without her consent, to be forced into banking upon her own credit and at her own risk. The propositions are as separate and distinct as any two things can be, and the people, whose will must always be consulted when the public faith is about to be pledged, might very readily consent to the one and yet never agree to the other. I assume that the people never would have assented to this second proposition—but whether they would or not, is not now in dispute. One thing is certain, they were never asked to do it, and another is equally certain, *they never did do it*.

It is said, I know, that all these are matters between the people and their representatives, with which the bond holders have no concern—and the same thing might be said if the legislature at its present or any

subsequent session, were to issue millions of bonds in the most flagrant violation of the Constitution, and squander them away in the wildest and most profligate dissipation. If I, a citizen of your state, purchase a forged bond or a warrant which turns out to have been issued in fraud of the laws regulating the treasury, it will be admitted on all hands that I cannot collect it—though I may have invested in it the labor of my whole life—and I know of nothing in the law or in good morals which gives to foreigners rights over our own citizens. The principle of *caveat emptor* is applicable in all such cases to resident citizens, and I know of nothing which requires the settlement of the rights of non-residents upon a different principle.

The position has been assumed that the stockholders of the Union Bank were bound to the amount of their respective stock subscribed. Be this as it may, it is a matter with which the legislature and executive have no concern. The courts of the country are open for the settlement of questions like this, and to them let it be referred.

I am not aware that any further legislation will be necessary to aid the parties concerned to procure an adjudication of their rights. If any should be, however, I shall be willing at all times to concur in such measures as the legislature may adopt for that purpose.

Whether anything is ever to be realized from the bank itself is questionable; but if anything ever should be, the legislature I hope will take care that it be faithfully paid over to the bond holders. It is thought if the state, through her legislature, meddles in any way with the assets of the bank, she thereby imposes some sort of obligation upon herself to pay the bonds. The position is not well taken. There is but one way in which the state can now be obliged to pay these bonds, and that is to pledge her faith in the manner prescribed by the Constitution for the redemption of this loan or debt.

The state in her sovereign capacity may see that justice is done between an incorporated bank within her limits and its foreign creditors, and this she ought to do.

If an improper use is made of one man's name in obtaining another's goods or money, and it is in the power of the man whose name has been thus fraudulently used to restore to its proper owner the goods or money so obtained, he ought to do it. But if he attempts to do so and fails, it would be a most extraordinary code of law or morals that would thence constrain him to advance the amount from his own pocket. Let the state put forth the strong arm of her authority to restore whatever amount of this money may be within her reach, and this being done, she is absolved in law, in morals, and in good conscience from all further connection with the bank and with the bonds.

No subject is better understood at home than this, and I should not on that account have alluded to it at all, but for the extremely harsh and unwarrantable attacks made on the state by citizens of other states, and of foreign nations. An impression unfavorable to the motives and character of our people has been induced abroad, by whom and for what motive I shall not pause to inquire. But when the integrity of my state is questioned, and her fair name reproachfully used, whether through ignorance, or to effect some extraneous purpose, I will speak as becomes a Mississippian; not as a partisan, but as a citizen deeply interested in

all that affects my country, will I make at least one effort to roll back the tide of obloquy which others are hurling against her. Amid the opprobrious epithets of the maligners of my beloved state will I assert, in the face of the civilized world, that Mississippi has no more repudiated her obligations than has any other state or nation. She has claimed for herself the right—(a right which she will never surrender)—to construe her own fundamental law, and to decide whether debts have been imposed on her in violation of that law. This she has done—and this is all she has done—this is the head and front of her offending. She is sovereign within her limits, and in that sovereign capacity has she decided this question. She has decided not that *she will repudiate her debts*, but that this is not her debt, and she spurns alike the carping enemies who would menace her, and the pretended friends who would seduce her into an abandonment of her position. I need not pursue this subject further;—the people have decided it at the ballot-box—and having assumed their position in full view of all the consequences which it can possibly involve, they are prepared to maintain it with a firmness which becomes a free people, conscious of the rectitude of their own conduct, unawed by denunciation at home or abroad, and unseduced by the eloquence of men sent hither to persuade them to pay debts they do not owe.

While we proclaim to the world our unalterable determination never to submit to taxation to pay one cent of this unjust demand, let us also proclaim justice to our honest creditors. Wherever there exists a debt against the state, contracted in good faith and with a proper regard to the Constitution, it *must* be discharged to the last mill. Of this character do I regard the bonds issued on account of the Planters' Bank; and come what may, the state can never shrink from the payment of them. Let prompt and efficient action be taken for their settlement. A speedy liquidation of them will afford what every good citizen is anxious to see, a fitting opportunity to manifest to the world that in rejecting the Union Bank bonds we are actuated by no mean or sordid principle of dollars and cents, but by a more elevated impulse—that of adhering faithfully to our written constitution.

If it were not trenching on the official prerogatives of my immediate predecessor, I would recommend to the legislature the immediate liquidation of the Mississippi Railroad Company, and the Planters' Bank, and the speedy collection of the sinking fund, with a view to the settlement of these bonds. I shall be most happy to unite with the representatives of the people in this or any other salutary measure which they, in their wisdom, may adopt for the payment of this debt. Besides the holders of these bonds, there is another class of creditors who have been for a long time knocking at the doors of the treasury for relief. I allude to domestic creditors who are holders of treasury warrants. These are creditors whose demands cannot be neglected without the grossest injustice. It can never be good policy in a state to remain long in debt. *We must pay what we owe*, and there will never be a more auspicious moment to begin than the present. For myself, I am ready for a vigorous and decisive effort to release the state from embarrassment, and I invite the concurrent action of the legislature. Resort to increased taxation will in all probability be necessary. If so,

let it be levied with justice and equality, and the people, whom we have ever found ready and willing to bear all needful privations to support their government, its credit, and its honor, will submit without a murmur. But before additional burthens are imposed on articles which have hitherto been made the sources of revenue, justice would seem to demand the inclusion of many articles not hitherto found in the catalogue of taxable property. I would enumerate gold and silver plate, marble mantels and costly furniture. No good reason suggests itself to my mind why dwelling-houses of great value should not be made the object of specific tax. Salaried officers have been made to contribute in other states, and why not in this? Practising physicians and attorneys, clerks and sheriffs, and other persons who receive fees and perquisites of office, might pay a portion of those receipts to the support of government. Doubtless the legislature may add many other articles to those I have enumerated; and if after all these there should be a deficit in the revenue, it must be raised by an increased tax upon the property of the citizens generally.

We are admonished by the situation of the treasury, and the constant demands of our creditors, to retrench our expenses and to adopt more rigid laws for the collection and safe-keeping of the public revenue. Biennial sessions of the legislature of short duration, will be very effective in reducing the expenses of the government, and I doubt not the legislature will devise other means equally as much so.

Our state was the first in the Union, and perhaps in the civilized world, to elect judicial officers by popular suffrage. It was a bold experiment in the science of government, and by some it has been condemned in unqualified terms, as calculated to corrupt the judiciary and endanger the faithful administration of justice. Others are still in doubt whether so great an innovation on the usual mode of appointing judges will not in the end be productive of evil. But much the greater number of our people are satisfied with the system, and wish to see it perpetuated. I was among its earliest advocates, and experience has strengthened me in my conviction of its superiority over all others. It is yet worthy of consideration, whether it may not be made more perfect in its detail, and I submit the propriety of so amending the Constitution and statute laws regulating elections, as that all judicial officers and others, not political in their character, may be chosen at a time different from that at which your members of Congress and governor, and other political functionaries, are elected. Such an alteration, besides removing judicial elections beyond the influence of temporary political excitement, would often relieve the elector from the perplexity of voting at once for some twenty persons or more for office, with whose qualifications or fitness for the station sought he is profoundly ignorant.

As intimately connected with the future glory and happiness of our state, the subject of education, more perhaps than any other, challenges our deepest consideration. Where is the seminary fund? is a question often asked but never yet satisfactorily answered. To members of the legislature let me say, our common constituents will expect of us some account of this munificent fund, and a speedy application of it to the great purpose for which it has been set apart. The day which witnesses the completion of this magnificent temple of learning, will be a brilliant

one in the annals of Mississippi. It will be regarded as the dawning of a new era in the history of letters, and as such will be hailed with joy by the friends of science throughout the nation.

Our state will not be appreciated at home, nor sufficiently honored abroad, until her educated youth shall acknowledge as their *alma mater* this or some other reputable college within our own limits. The practice of sending the youth of the country abroad to be educated, ought to be discouraged. The only effectual means of doing so, is to rear up colleges and academies at home, which may successfully compete with those of other states. The enterprising founders of Centenary College have set a noble example, and one which deserves imitation. Let such institutions be encouraged by all proper means in our power, and instead of sending our youth abroad to be educated, where they sometimes contract unfortunate habits, and grow up with false prejudices against home institutions and laws, they may be kept at home comparatively under the supervisory care of their parents, surrounded by those institutions and protected by those laws which it is proper they should be early brought to love and reverence.

Great seminaries of learning will effect but little in that general diffusion of knowledge so absolutely essential to the happiness of man and the prosperity of government. In monarchical governments where the liberty of the people is considered destructive of government, the greater the ignorance the greater the safety, is a popular motto. But here, where all political power is inherent in the people, there can be no calculating the advantage of education, nor telling the countless blessings—political, social, and religious—which it may dispense to all parts of the country. Some of our sister states, with a singular tardiness in widening the bounds of human liberty, still cling to the exploded idea that a man's capacity for self-government may be measured by the length of his purse, and hence give to the ignorant man of fortune the elective franchise, while they withhold the same inestimable privilege from the educated poor. Thanks to a generous people, no such blot is allowed to rest on the escutcheon of Mississippi. If the sixty years' experience which we have had in the science of government has demonstrated anything, it has shown that man is best governed when he governs himself. I would knock off the shackles and give to freemen liberty in its broadest sense. But I would extend the blessings of education to every one, that every one might read and understand the importance of using that liberty for their own safety and for the advancement of their country's glory. I cherish it, fellow-citizens, among the most ardent wishes of my heart, that the day may yet come when every white adult in the state of Mississippi may at least be enabled to read and write. For this universal education we are to look to common schools, and not to those great seminaries, where the more elevated branches of polite literature are taught. I will not dwell on the advantages of such schools. It is to be hoped, however, that an enlightened assembly, legislating no less for the future than for the present generation, will not neglect a subject which forms the substantial basis of our social happiness and political prosperity. If my advice could avail anything, it would be freely given in favor of a general system of common schools, which should be open to all, and at which the poor should be educated



*gratis*. That some such scheme, combining at once the convenience and economy of the New England system, will be brought forward, I sincerely hope and believe. No more advantageous field than this need be wanted by that man who wishes to exercise a laudable ambition, or to leave a name that shall live after him. I venture the prediction, that the man who brings forward, and carries successfully through, a well digested plan of common schools, will erect for himself in the hearts of his countrymen a monument more lasting than marble—as enduring as time itself.

It should be the studied purpose of all who legislate, so to regulate the internal policy of the state that the blessings of government may be dispensed without stint and without partiality. The policy of every nation should be to secure the happiness and prosperity, and with them the affections, of its people. Hence, every system which tends to paralyze the energies of any class of our citizens ought to be abandoned.

Industry should be encouraged. Labor, when properly employed, may always be relied on as a substantial source of national wealth. Whatever tends to divert the laboring man from his pursuit, or to degrade his occupation, should never be persisted in. Repeated complaints have been made by mechanics, that convict labor in the penitentiary was so employed as to conflict seriously with their pursuits, and to bring the mechanic arts into disrepute. Having at all times an anxious desire to relieve the oppressed, and to encourage such as are pursuing an honest livelihood, I doubt not the immediate representatives of the people will speedily inquire into the causes of these complaints, and apply such salutary corrective as shall at once satisfy the complainants and promote the public interest. I tender my hearty co-operation in such a measure.

Among the most delicate and responsible trusts confided to the executive, is the pardoning power. Feeling that this power of arresting the judgments of the courts, was conferred for the purpose of staying the hand of the executioner, and giving life and liberty to the unfortunate accused in extreme cases only, and not for the purpose of being exercised at discretion, I shall govern myself accordingly; and however much my personal sympathies may be enlisted for the unfortunate convict, or his still more unfortunate friends, those sympathies will not be allowed to arrest me in the faithful discharge of my official duties. I repeat what I have hitherto said, that when courts and juries convict, the law will be allowed to take its course, except in extraordinary cases—as when, for example, new facts, important to the defence of the accused, are elicited after conviction and sentence. Any other course would tend to defeat the ends of justice, and make the execution of the criminal law depend on the will of one man.

Believing that the immediate representatives of the people constitute the source through which their will *ought to be* expressed, I shall be most happy to find it always compatible with my sense of duty to concur in such measures as they may think proper to adopt. But as the veto power was given to the executive to check unconstitutional and improvident legislation, it will be exercised for that purpose, should it, in my opinion, unfortunately become necessary. Relying, however, with the fullest confidence on the intelligence, virtue, and political forecast

of the legislature, I will indulge the pleasing hope that no such necessity will arise during my continuance in office.

I have abstained from any expression of opinion in regard to national politics, for the reason, among many others, that I find in our domestic household more that requires attention than we shall find time to dispose of. There is one subject, however, which, being viewed in a particular aspect, is so intimately connected with the prosperity of our state, the perpetuity of her institutions, and, I may add, of her existence as an independent member of the confederacy, that I will be pardoned for briefly adverting to it. I mean the annexation of Texas to the United States. Already has it been *hinted* in the diplomatic circles of another country, that the ambassador of a powerful nation had been authorized by his court to offer independence to Texas, on conditions which, if accepted, could not fail to affect seriously our dearest interests. These conditions are said to have been the total abolition of slavery in that republic. I respectfully submit whether there is not just reason to apprehend that a country like this, worn down by the fatigues and turmoils of a protracted war, and constantly menaced by a formidable enemy, may not be induced, when all other efforts at peace have been tried in vain, to close with overtures like this, and especially if the proposition comes, *as it most likely will*, gilded over with the additional proposition to pay the residents of Texas a fair compensation for their slaves. Annexation under any circumstances, is desirable. So long, however, as Texas maintains her independence, and adheres to her present form of government, it is not *indispensable*, especially if she repel, as I trust she ever will, with becoming energy, all attempts to unsettle her domestic policy on the subject of slavery. But if the question shall arise, whether the United States and Texas shall constitute an integral government, or Texas become a British colony, no friend of the Union can hesitate as to the course which imperious necessity will require him to pursue.

I will not doubt the patriotism of Texans, nor call in question their friendship for this country and its institutions; but self-preservation is the first law of our nature, and may not Texas, after years of continued disturbance and apprehension, without money, and almost without friends, be constrained even against her inclination to accept terms like these, in the vain hope of preserving her identity among the nations of the earth? And shall we stand idly by, whilst Texas, and with her our own institutions, are drawn inch by inch into the meshes of a wily nation that has never failed to do us injury? Shall we stand with our arms folded in fancied security, while Great Britain is stealthily advancing that destructive policy (abolition) of which she is the national impersonification? Does any one doubt, that if England can sever the tie which binds Texas to the United States—if once she can get the confidence of the Texan people, she will by negotiation, *or by conquest*, add that country to her already powerful dominions? Give England a foothold in Texas, and she will plant her colonies there, and become in that country what she failed to be in the Indies—your great rival in the production of cotton. Annex Texas to the United States, and you will have acquired a territory salubrious in climate and fertile in soil, abounding in all that can make a country desirable. From this territory you

may erect independent states that will come into the Union alongside of Wisconsin and Iowa, and the yet unsettled territory of the North-West, thus preserving that political equilibrium in the Senate of the United States, so absolutely essential to the safety of our domestic institutions. Annex Texas to the United States, and you give to the South a degree of influence in the councils of the nation which will enable her to assert her rights with confidence, and maintain them with independence, and secure to Mississippi peace in the exercise of her domestic policy, and a proud independence as a separate member of the confederacy. More than this, I need not say. If the representatives of the people agree with me in these views, they will adopt some suitable mode of making their opinions known, and invite the action of Congress and of our sister states on this interesting subject.

In conclusion, fellow-citizens, let us invoke the favor of Divine Providence to extend still further His kindness to our country and ourselves. That He will enlighten our minds, and elevate our thoughts, and so direct our councils, that in all our efforts to advance the great cause of human liberty we may be eminently successful. Let us remember that no people were ever prosperous and happy, for a long period of time, who did not govern themselves by an elevated standard of religion and morality, and acknowledge their constant dependence on the Great Ruler of the universe. That we may so continue to acknowledge our dependence, and that we may always be remembered in mercy in the dispensations of His divine providence, is the earnest prayer of your humble servant.

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## MESSAGE.

ANNUAL MESSAGE AS GOVERNOR OF MISSISSIPPI, COMMUNICATED TO THE LEGISLATURE JANUARY 6, 1846.

GENTLEMEN OF THE SENATE AND HOUSE OF REPRESENTATIVES: The biennial meeting of the legislature imposes on me the constitutional duty of communicating to the representatives of the people the state of the country. The past two years has presented a period of very general prosperity. The health of the country has been good. Industry and economy, united with a sound currency, propitious seasons and a fruitful soil, have rewarded the toils of the husbandman with a fair income. Blessed with tranquillity at home and peace abroad, our country has gone forward towards the high destiny which awaits her. The people, rejoicing that their destiny has been cast in a land of liberty—in a land where the written constitution and the laws throw the ægis of their protection alike over the humble and the exalted, have pursued their several vocations with profit to themselves and honor to their country. With the destruction of the causes which produced them, vice and immorality have measurably disappeared, and the Christian's heart is gladdened by the manifest improvement in religion and morality. These are matters which awaken feelings of gratitude to our Divine Master,

and call forth expressions of devoutest praise. Whilst we witness this general prosperity among the people, it is pleasing to know that the state has prospered also. She has recovered rapidly from her embarrassments, and, if not checked by unwise legislation, must very soon throw off her shackles entirely. Her financial affairs have greatly improved. The auditor's report of January 1st, 1844, exhibited the

indebtedness of the state on account of Auditor's warrants at	\$614,743.83½
There has been issued from January 1st, 1844, to January 1st, 1846,	486,508.41½
Making an aggregate of	1,051,252.25
There has been paid into the Treasury, on all accounts, from January 1st, 1844, to January 1st, 1846,	779,711.58
Showing a balance outstanding on the 1st of January, 1846, of	271,707.07

The assessments of taxes for 1845, very little of which has yet been collected and paid into the Treasury, amount to \$412,772.98. To this the Auditor adds \$20,000 on account of miscellaneous items, and subtracts \$30,000 for assessing, collecting, and insolvencies, leaving a balance of \$403,772.98, which will be paid on account of taxes for 1845; so that by the close of the present fiscal year, should the tax collectors settle with the same promptness that characterized them in 1844, the state will have redeemed an amount equal to the warrants that are now outstanding, and leave a surplus if no others were issued, of \$131,062.91. What amount shall be issued in the mean time depends mainly on the action of the legislature. I have been congratulating myself that the sum would be unusually small. There are but few private demands against the treasury, which will require appropriations, and I am not aware that the public interest will need any important outlay of money beyond the ordinary expenses of the government. The legislature has doubtless imbibed the prevailing sentiment of the age, that economy is the greatest and best virtue with states, as well as with individuals—and it will therefore limit the appropriations to such objects as are indispensable.

Of the auditor's warrants outstanding on the 1st inst., \$159,716.68 is in the form of funded scrip, not payable until after January 1st, 1847, and may therefore be placed in the account of the next year. Estimating the expenses of the legislature at \$60,000 and the state government at \$125,000, I set down the sum necessary to be provided for the present year, as follows:

Auditor's warrants issued prior to January 1st, 1846, not funded, or funded and due in the year 1846,	\$105,845.09
Expenses of the legislature,	60,000.00
State government for 1846,	125,000.00
Total,	\$290,845.09

It will be seen that these are items of indispensable necessity, and must be provided for. They leave a surplus of \$113,927.86 on the first of January, 1847. There has been paid into the treasury, at various times, on account of the seminary fund, \$79,548.76, which drawing by law an interest of eight per cent. amounts now to \$103,068.40, and there

has been paid on account of the sinking fund \$84,000. It is so palpably just that these items should be speedily adjusted with the public creditors, that I feel at full liberty to press them on your attention.

The first payment should be made to the seminary fund. This institution has been located at Oxford, in Lafayette county, where a suitable site has been procured for the buildings. The trustees held a meeting in July, 1845, and subsequently furnished me with printed copies of their proceedings, which I herewith transmit to the legislature. An appropriation will be necessary to enable them to erect their buildings. Economy should be observed in their construction, convenience and durability being consulted rather than beauty and ornament. I recommend that the sum set apart for building be limited to fifty thousand dollars.

This fund was formerly collected through the agency of the Planters' Bank, and by law it was invested in the stock of that institution. It was a trust fund, so declared by the Act of Congress making the donation of lands, out of which it sprung. The state, as trustee, had no authority for investing it in the stock of any bank; she did so, however, and eighty-four thousand nine hundred dollars, with several years' interest on that amount, has been lost. The state is, in my opinion, under the most solemn obligation to pay it back. It is an obligation, not to Congress, but to the children within her own borders, for whose especial education the fund was set apart. I am fully persuaded that Mississippi will never incur the reproach of withholding justice and the means of education from her own children; and therefore I submit the question to you without discussing the state's legal liability. The amount of this fund may be stated as follows:

Amount now in the treasury of the state, . . .	\$103,068.40
Lost principal and interest in Planters' Bank, . . .	110,000.00
To be collected—but in safe hands and secure, . . .	38,287.98
Total, . . . . .	<u>\$251,356.33</u>

What disposition should be made of this fund, I propose to speak in connection with another subject.

Within a very few days after the adjournment of the legislature in 1844, the commissioners of the Jackson and Brandon Railroad and Bridge Company, made an application to me for twenty-five thousand dollars of the two per cent. fund, loaned to that company by an act of the legislature, approved February 26th, 1842. The period limited by law for the completion of the road having expired, and the road being still unfinished, I thought the franchises of the company so far forfeited as not only to justify, but indeed to require me to withhold the money and await farther legislative action. In presenting this subject to the legislature, it is proper for me to say, that the failure of the company to complete the road within the required time, was owing, in a great degree, to circumstances which they could not control: not the least among these was their disappointment in not receiving the benefits of this loan as early as 1843. It will be recollected that the Act of 1842 made the loan contingent upon the consent of Congress. Some time after the adjournment of the legislature in that year, an agent of the company repaired to Washington for the purpose of obtaining that consent, in

which he succeeded. For reasons satisfactory to himself my predecessor withheld the money. When I came into office I thought the company entitled to receive it, and should have directed its payment, but for the expiration of the charter. It seems not to have been the fault of the company that they did not realize the benefits of the loan, and to that extent they are irresponsible for the non-completion of the road. I recommend that the \$25,000 and such other portion of the two per cent. fund, as is necessary for that purpose, be expended in completing the railroad from Jackson to Brandon, under the direction of commissioners to be appointed for that purpose.

The road forms a link in the great chain which is ultimately to connect the Mississippi River with the Atlantic, and in that view it swells into an importance far beyond anything connected with the mere existence of a road from Jackson to Brandon. At the time when Congress, at the earnest and repeated solicitations of this state, relinquished the two per cent. fund to a railroad from Brandon to the Alabama line, it was confidently expected that the link between Jackson and Brandon, then in a state of progress, would be completed by other means. These expectations have been disappointed. They induced Congress, however, to mention Brandon, instead of Jackson, as the starting point of the road. The consent of Congress has only been obtained to the application of the twenty-five thousand dollars to this intermediate link. Her consent should be asked to the use of so much of the two per cent. fund as is necessary to complete the railroad from Jackson to Brandon; or, in other words, the consent of Congress should be obtained for commencing the road at Jackson, instead of Brandon. And in anticipation of this consent being had, the legislature ought at once to make such provision as will insure the most economical and speedy application of the money. I invite the special attention of the legislature to the several memorials from this state, and the final action of Congress in relinquishing the two per cent. fund. It will be seen that the state asked, and Congress relinquished it to this particular road.

The scheme of connecting the Atlantic with the Mississippi River by means of a railroad is one of vast magnitude, and will doubtless engage the early attention of the legislature.

Rejecting the idea that Congress may apply the national treasure to improvements which are only local in their character, it is nevertheless true, that works which are essential to the "common defence" of the *confederated states* may, and ought to be constructed at the national expense. Viewing the contemplated railroad as a work of this character, I do not hesitate to advise the legislature to make an earnest appeal to Congress to aid in its construction.

Should the South-western States be invaded, the road, as a means of speedy and safe transportation of troops and munitions of war, would be found of incalculable advantage to the nation at large.

The delays and dangers incident to a voyage around the Floridas, on the one hand, and the perplexities of tedious marches over land on the other, would be avoided. Army supplies, instead of being sent down the river when the waters are low and the delays great, could be forwarded from the East, and by the same means the Eastern and Middle

States could be supplied with safety and expedition from the South and West.

If this country is ever invaded by our ancient foe, it is scarcely to be doubted that the Southern States will be selected as the theatre of his most active operations—how essential, therefore, that the means of throwing defence into the country, without danger and without delay, should be provided as speedily as possible.

Should the legislature make an address to Congress on this subject, I respectfully suggest that, instead of asking a direct appropriation of money to this object from the treasury of the nation, they should solicit a donation of one-half of all the vacant lands in all the land districts through which the road is to pass, to be taken by alternate, quarter, half, and whole sections. The magnitude of the work will justify the legislature in making the request, and its national consequence will, in my opinion, fully authorize Congress in granting it. A donation thus liberal will insure the success of the enterprise, and give us the means of speedily concentrating all our defences, which will, of itself, be more terrible to an enemy than millions of soldiery scattered over the broad extent of our country. I pass over the incidental advantages which it would give to commerce, and the facilities it would afford in the transportation of the mail, and the strength which it would give to our band of union, by bringing the remote parts of the country closer together, and intermingling, as it were, the citizens of Texas with those of New England. Apart from these considerations, Congress should make the grant on other grounds. If the road is completed the remaining lands must be greatly appreciated in value; and it appears to me that if Congress, by applying our moiety of the public domain to an object of great national importance, can increase the value of the remaining half five fold, or even two fold, it is not only competent for her to do so, but that she is called upon by the highest considerations of public policy and public justice to make the grant.

At what point the railroad approaching from the Atlantic, should strike the Mississippi River, must be left, of course, to the decision of those who furnish the means for its construction. It may not be amiss, however, for us to suggest the reasons why Vicksburg should be selected as the most proper point. In the first place, the road from Vicksburg to Jackson is completed; it is, to be sure, in the hands of a private company, but the construction of the road is the question of primary importance, to whom it shall belong is only secondary. In the second place, the grading on the line from Jackson to Brandon is completed. In the third place, a survey of the route from Brandon to the Alabama line has been made, and the cost of constructing this part of the work estimated at only \$1,083,428; and fourthly, the two per cent. fund, amounting to within a fraction of three hundred thousand dollars, has been appropriated to this road. Is it assuming too much, to say that Mississippi, in asking the relinquishment of this fund to this particular object, and Congress in granting it, decided that Vicksburg should be the point where the road is to intersect the river? The two per cent. fund, in the state of Alabama, amounts to \$232,000, and one-half of it has been relinquished to the construction of the road through that state.

The five hundred thousand acres of land given to this state for works

of internal improvement by the general government, has been located by commissioners appointed for that purpose, as have also the Chickasaw school lands, amounting to one hundred and seventy-four thousand acres. I have procured a map of these lands to be made at the office of the United States Surveyor General. For special reasons I have not deemed it prudent to have all the lands registered, though they have all been located. There are about thirty thousand of the five hundred thousand acres not yet registered, and therefore not exhibited on this map.

The present is not, in my judgment, a propitious season for bringing these lands into market. So far as relates to the school lands, I doubt if good policy does not forbid the state's parting with the freehold at any time. The lands should be leased for short terms, not exceeding fifteen years; and the rents and profits paid into the treasury of the state, to the separate account of the school land in the Chickasaw counties, and be used for that purpose and no other.

Whether the state should grant pre-emptions to settlers on the five hundred thousand acres of her lands, is a question on which I defer to the superior judgment of the legislature; and whilst I do not recommend it, I shall not feel at all at liberty to withhold my assent, if the legislature, on mature consideration, deem it right, especially if a proper estimate is placed on the value of the land, and care is taken to exact prompt and rigid payments from pre-emptors. The state should adhere as closely as possible to the cash system. My experience has been that the less she deals with the citizens on a credit, the better for both parties.

The acquisition of Texas, and the tide of emigration to that country, together with a prevailing mania among planters to embark in the production of sugar, must, of necessity, depress the value of cotton lands in this state for some years to come. Should the legislature, contrary to what I think is the policy of the state, determine to hurry these lands into market, I recommend, that they be classed, into first, second, third, and fourth classes, and offered at public sale on due notice, at a minimum of two, four, six, and eight dollars per acre, for cash; or else that the whole be offered at a minimum of eight dollars the acre, and the price graduated to seven dollars the first year thereafter, to six the second, and so on, down to one dollar and twenty-five cents per acre.

When it is recollected that these lands have been selected in small bodies and with great care, and that they are now the best uncultivated cotton lands east of the Mississippi river, it will appear, I think, that these prices are not too high. It is certain they will command such prices after a few years. The sales being over, an office should be opened, and the lands not disposed of at the general bidding should be offered at private entry, and at the prices just stated. At whatever time and at whatever price the lands are sold, I strenuously urge upon the legislature to order them sold for cash only; and that the first proceeds be used in reimbursing to the treasury the amount of money expended in locating them.

Selling on a credit will encourage combinations to buy on speculation, and if the speculations fail, as they most likely will, the state will find herself harassed with multitudes of perplexing lawsuits, in most of which, she will be unsuccessful; and in the end the good debts will be sunk in fruitless efforts to collect those which are bad. As familiar examples,



I may cite the sinking fund, the seminary fund, and the Jackson town lot fund.

The projected levee on the east bank of the Mississippi river, commencing at the Tennessee line and terminating at the mouth of the Yazoo, is a work to which I invite your attention. The question of its practicability is placed beyond question by the report of the Topographical Engineer, submitted to the legislature in 1844. He estimated the cost at \$88,883.47. This will be found, I apprehend, too small a sum; but if the cost should be twice, or even thrice that amount, the sum would then, not be commensurate with the value and importance of the improvement. When two or more parties are jointly interested in the completion of a work, it should be constructed by their joint efforts. The state of Mississippi has five hundred thousand acres of land, a small portion of which is now subject to overflow, and would be protected by the levee. She has a much larger quantity which would be appreciated in value by its construction, because it would render access to the Mississippi river easy, safe, and expeditious.

The United States has about one million of acres in like condition, except that a much larger proportion is subject to inundation; much of it to a great depth, and always at that season of the year which to the planter is indispensable. The lands are therefore, without value. It is scarcely to be doubted, if Congress was accurately informed as to the present condition of these lands, and what would be their worth, if rescued from overflow, a liberal and enlightened policy would be pursued. It is therefore advisable to lay the facts in an authentic form before Congress, and ask her to relinquish for that *special object* alternate sections of all unsold lands on the east side of the Mississippi river, as far back as the hills, and between the Chickasaw line and the mouth of the Yazoo river. This may occasion some delay in commencing the work, but it is vastly more important that works like this should be properly done, and by the proper parties, than that they should be done expeditiously. The benefits which individuals owning lands on the margin of the river will derive from the completion of the work, will justify the state in calling on them to make contribution.

I do not feel impelled by any present pressing necessity, to urge you to commence this levee immediately, and especially if it is to be done at any great sacrifice; but it should be a leading and paramount object with the state, to have it completed at no distant day, and the legislation of the country in regard to its public lands should be shaped towards that end. Should the legislature deem it advisable to commence this and other works of improvement within any short time, I advise the purchase of slaves for that purpose. I am satisfied if planters can cultivate their lands to greater profit with slave, than with free labor, the state can, with equal advantage, prosecute her improvements with the same class of labor. She must, however, to do this, employ overseers who are accustomed to manage slaves, and introduce the same economy which prevails on well regulated plantations.

These suggestions may be considered as applying to the works to be done in grading and getting timber for the eastern railroad, and such other works as are commenced by the state. On this subject I have the honor to transmit a letter from the Hon. John P. King, President

of the Georgia railroad, which will tend, I think, to sustain the view that I have taken.

Before any contracts are made, or the work commenced, either on the levee, the road or elsewhere, the state should acquire the right of way through the whole route; otherwise she will be imposed upon by the avaricious and selfish through whose possessions the works are to pass.

If these views meet the legislative sanction, I further recommend that proposals be issued to hire laborers who shall be paid wages to be specified by law, in lands at a fixed valuation. I have thought it reasonable to suppose, that planters and others owning lands on the margin or near the Mississippi river, seeing that the state had the means, and was prosecuting the work with a determined spirit, would gladly aid in its speedy completion, when thereby the lands which they now own, are made more valuable, and those which they take in payment for their work are increased in worth by the labor they expend in buying them.

The interesting subject of education has engrossed a large interest in the public mind for some years past. It must be gratifying to the patriot and philanthropist to witness the unanimity with which it has been espoused; and if the legislature responds, as it doubtless will, to the prevailing public sentiment, the imperative command of the constitution, that "schools and the means of education shall for ever be encouraged in this state," will no longer go unheeded. "Knowledge," in the language of the constitution, "being necessary to good government, the preservation of liberty, and the happiness of mankind," no arguments need be resorted to, to convince the representatives of a free people, that it is their duty to encourage its general diffusion.

Let it be borne in mind that the boys who are now growing up, too many of them in ignorance and vice, must in a very few years take our places, and become controllers of our country's destiny; and let us not disguise from ourselves the stubborn fact that the ignorant and vicious of these, under our forms of government, must be as potential at the ballot box, for good or for evil, as the most learned and virtuous; and I am fully persuaded, we will employ all the means in our power, to educate them—to direct them in the ways of "religion, morality and knowledge," and thus quicken their devotion to their country.

Benefits are not priceless. If we expect to enjoy the blessings of education, or to transmit its fruits to our posterity, we must expect to pay for them. To the great mass of the people, this declaration will neither be surprising or unacceptable. They do not expect knowledge and a familiarity with the intricacies of government to spring up spontaneously in the minds of their children—good fruit does not grow upon uncultivated grounds, but as thistles and other noxious weeds take possession of an unploughed field, so do vice and wickedness spring up in the mind which is not trained to God and the country. Government gives protection to our lives, our liberty, and our property, but who shall give protection to government if we neglect it? If it be true, that "the blessings of government, like the dews of heaven, descend alike on the rich and the poor," it must be true, that the rich and poor are alike bound to contribute to its support.

We contribute annually to the support of all the various departments

of government, to the legislative, the judiciary and the executive; we contribute to the erection of prison houses and temples of justice, we contribute to the sacred altar and its divine ministrations, but to that which lies at the bottom of them all, and without which the whole must become "as a sounding brass and tinkling cymbal," we contribute nothing.

Education has many votaries but few contributors. What should we think of a man who had built a ship and sent her upon a distant and perilous sea, laden with rich and costly goods, without insurance? Yet, have we erected a government, ladened it with priceless jewels of liberty, and cast it upon the uncertain element of popular will, untempered, as yet, by the hallowing influence of education; and shall we still refuse to insure the safety of that government, by refusing to contribute to the only means that can give it safety—the education of its people? The rich may say, we have no interest in the education of the poor! There could be no greater or more fatal error. Pride, the love of our offspring, the ephemeral pleasure of witnessing the bud of youth nurtured by our care, as it expands, and grows, and ripens into manhood, these teach the rich to educate their own children, but the higher considerations of patriotism—the holier cause of religion and morality—the pure and unstained love of human happiness, teach them to educate the poor.

Having had my attention drawn to this subject, I opened a correspondence with gentlemen in different parts of the country, with a view to elicit information. Their replies, together with such statistics and other documentary evidence as I have been enabled to collect, are at the service of the legislature.

Difficulties beset us, I know, but they are difficulties which a prudent and discreet management of our affairs will overcome. The sparseness of population in many places, has been interposed as a serious objection in the way of any general system of schools. Perhaps it is so. If we cannot, on this account, employ teachers for a year, we could perhaps employ them for a half or quarter of a year. If we cannot do everything, surely it is not a valid reason why we should do nothing.

Among other matters connected with this subject, I invite the special attention of the legislature to the reports of the presidents of the boards of police in the several counties, on the subject of the school lands. These reports were elicited by a circular which I addressed them, and which is herewith transmitted. It will be seen that all have not responded, but enough has been collected to show the manner in which the school lands have been treated, and to make it apparent that a radical change is demanded.

After devoting as much time as I could spare to the subject of schools, consistent with other official duties, I feel prepared in a spirit of the utmost confidence as to its success, to make the following recommendation. The state ought to assume the \$110,000.00 lost in the Planters' Bank, and place it at once on the same footing with the \$103,287.00 now in the treasury. The fund would then amount in round numbers to two hundred and fifty thousand dollars. Two hundred thousand dollars of this should be retained as a permanent fund, and the residue appropriated to the erection of college buildings at Oxford, as heretofore suggested.

This permanent fund should be kept in the treasury, and an annual interest of eight per cent. paid on it. This interest (16,000 dollars) should be set apart in the treasury at the beginning of every year, and kept sacred and inviolable for the purposes hereafter to be named; and here let me remark that the vexation and expense which has attended a first collection of this fund, and the heavy and ruinous losses which it has sustained in the hands from which it has been slowly wrung, should admonish the legislature to take charge of it and keep it secure in future. Of the sixteen thousand dollars interest, I recommend that eight thousand dollars be appropriated to the annual purposes of the college. There should be then established ten academies or high schools, at as many different points in the state, to be designated by the legislature, having reference to geographical divisions. To each of these there should be an annual payment of eight hundred dollars out of the remaining eight thousand. Nothing is clearer to my mind than that the college will not succeed without the aid of auxiliary schools. These schools need not, and indeed should not, be in the immediate vicinity of the college, but at such points as to give it the most efficient aid, and at the same time to diffuse the greatest amount of intelligence among the people. The language of the Act of Congress in making the grant of land from which we derive this fund is that "it shall be vested in the legislature of the state in trust for the support of a seminary of learning." This language, "a seminary of learning," has been thought to limit the legislature to the establishment of one school, and to negative the idea that that school could have auxiliary departments. It has seemed to me so palpable that the trustees could so act as to carry out the great object of the trust, which was the diffusion of knowledge, that I have not fallen into what is to my mind a constrained idea of the law of Congress. It does not necessarily follow, that because the Act of Congress said "a seminary," that it meant there should be one school under one roof, or that the "seminary" and all its auxiliary departments should be in the same enclosure, or even in the same city or town. The spirit of the Act of Congress is carried out by the establishment of one seminary, university or college, with such auxiliary departments as are necessary to its success. These should be UNDER THE SAME GENERAL SUPERVISION AND CONTROL, and be located at such points as to be of the greatest advantage to the main college, and to the cause of education.

There must yet be another and a still more useful class of schools—I mean the common or free school. The 16th section of land in each township, set apart by a wise enactment of Congress for this purpose, have been most shamefully neglected: The inattention with which these lands have, in many instances, been treated, makes it very apparent, to my mind, that whatever system of schools we adopt, must be taken under the supervisory control of officers who shall be responsible to the state. There must be some general head, and there must be an immediate responsibility of that head to the state laws. The people in mass will never require responsibility, and they will never act unitedly and constantly as one man for the common good; each one will content himself with acting for himself, and the general good will go unattended to. Of the ten or twelve hundred sections of school lands heretofore, and now under the control of the citizens of the township, I have not been

enabled to ascertain that one hundred have been well managed. Some of them have been trespassed on and denuded of their valuable timber; in other instances they have been leased, and the money has not been collected: in many instances it has been collected and squandered: in the fewest number of cases have there been free schools kept by the proceeds.

I recommend the passage of a law for the election of school commissioners in each county, one by the qualified electors of each police district, and that it be made the duty of this "board of school commissioners" to inquire into and ascertain the exact condition of each sixteenth section in their respective counties. I recommend the appointment of a general school commissioner to reside at the seat of government, who shall receive his appointment from the governor and Senate, whose duty it shall be to require of and receive from the school commissioners in the several counties, semi-annual reports of their proceedings in regard to the sixteenth sections and other matters intrusted to their charge.

It should be made the duty of the county commissioners to hold meetings quarter yearly, at the county site, and whenever the interest arising from the proceeds of a school section is sufficient to pay a teacher, it should be their duty to employ a competent man and establish him in a school. Wherever there is a surplus, the consent of Congress should be obtained to its transfer and use in the next adjoining township in which there is a deficiency. They should, without delay, lease all the sixteenth sections now undisposed of, and report to the general commissioner the amount for which each one was leased.

I farther recommend that all the fines and forfeitures, billiard, retail, and other licenses, and all other funds that now go into the treasury other than the legitimate taxes on property, be relinquished to a fund to be established and called the "school fund." That the literary fund be collected from the several counties, and placed in the "school fund;" and I further recommend that a tax of five per cent. on the amount of the state and county taxes, be assessed and collected annually, for the benefit of the school fund. I estimate that from these sources (not including the literary fund now on hand), we will derive 75,000 dollars annually. This fund should be placed under the control of the general commissioner, to be used in *aiding* the establishment of free schools. The fund to be apportioned among the counties, each according to its white population, taking the census of 1845 as the present basis of apportionment. It should be the duty of the school commissioners to establish schools. And whenever the funds of the township were insufficient to employ a teacher, a portion of his wages should be paid out of the general fund; and the whole should be so divided that there should be a free school in every inhabited township, at least a part of the year. If the fund would employ a teacher but for three months, let the school be taught for that length of time.

Such is the plan which I have devised. If it does not meet the legislative sanction, my hearty co-operation is tendered in any other scheme which gives reasonable promise of success. In the final arrangement of any plan, much must be included by way of detail which it would be inconvenient to embrace in a general recommendation; and I hope it

may not be considered as stepping beyond the limits of propriety to say it will give me pleasure to aid in the arrangement of these details, should the plan which I have recommended be sanctioned by the legislature.

The financial condition of the state is such that I entertain a lively hope, that the day is not distant when we shall pay an instalment on the bonds issued on account of the Planters' Bank, and thereafter meet them regularly and promptly as they fall due. I will not deceive you or our common constituents with the delusive hope that any considerable amount will ever be realized from state stock in the Planters' Bank and the Mississippi Railroad Company. Something may be obtained, and most certainly every legal and proper means should be resorted to to secure as much as possible; and the legislature ought especially to abstain from any act which could by the remotest possibility endanger the state's interest in either of these institutions. It is idle, however, to rely on the assets of these corporations to meet the bonds. It is unjust to require holders of these bonds to await the final settlement of the bank's affairs for their proper dues.

I have not permitted myself to doubt that the state would, at the earliest period consistent with her engagements to other creditors, commence the payment of these bonds. They have been thrown upon us unexpectedly, and hence we have not been prepared to meet them. The large dividends declared by the Planters' Bank for many years, and the supposed solvency of the railroad company, during its brief but unfortunate career, lulled the public mind into security. The sudden explosion of both these institutions startled the people with the unlooked for intelligence, that a fund of two millions of dollars had, in a great measure, been lost, and that a heavy debt had, in consequence, been thrown on the treasury for payment. They have not shrunk from their legitimate responsibility, *and they never will*. I speak confidently, because in 1843 I maintained the state's liability to pay this debt, and the people sustained me. In my inaugural speech I reiterated my opinions, and they have ever since been undisguisedly proclaimed, and the people have again elected me by a greatly increased majority.

The first provision made by the legislature for the issuance of these bonds was in 1830. By the 1st and 7th section of an act chartering the Planters' Bank, approved February 10, 1830, and by the 4th and 5th sections of an act, supplemental thereto, approved December 16, 1830, the faith of the state was pledged, and provision made for issuing two millions of dollars in state bonds.

In pursuance of these sections the first 500,000 dollars of six per cent. bonds, were issued and sold in 1831. (See Doc. herewith transmitted.) It has been intimated that these bonds were unconstitutional, and the reason assigned, is that the 16th section of the Act of 1818, which was supplemental to that of 1804, chartering the "Bank of Mississippi," pledged the faith of the state, that "no other bank" should be established in this state during the continuance of the aforesaid corporation, "and that in derogation of this pledge, the Planters' Bank was established;" and that by the 1st and 7th sections of the charter, and 4th and 5th sections of the supplement, these bonds were issued. I think it may be well questioned whether the legislature of 1818 did

not transcend its powers in undertaking to guarantee the exclusive right of banking in the state to a single corporation, for a series of years. There was nothing in the constitution of 1817 expressly giving this right, and the legislature of 1818 was assuming too much, perhaps, when it undertook to forestall the action of each subsequent legislature to the year 1834, when the charter of the old bank was to expire.

On the mind of those who believe the legislature has the power to repeal bank charters, the argument that the "Planters' Bank" conflicted with the rights "of the Mississippi Bank" will fall "as seed sown on stony ground." And to those who believe with me, that the powers of one legislature are commensurate with those of another, where no exclusive constitutional rights are given to one over another, it will seem almost conclusive that the legislature of 1818 had no right to assume the exclusive and entire control over the subject of banking, as they did for a period of 16 years.

True, the opinions of gentlemen distinguished for their legal ability, have been invoked, and are said to sustain this position. These gentlemen may have been wrong. If they meant to say that the issuance of the bonds was unconstitutional, it is, to my mind, most palpable that they were so.

There was nothing in the constitution of 1817 which forbid the legislature to pledge the public faith for a loan of money. They did pledge it, and on that faith they borrowed 500,000 dollars, which was invested in Planters' Bank stock, on which the state, for many years, received the dividends; and would doubtless have continued to receive them if the bank had continued to declare them. I do not now undertake to controvert the unconstitutionality of the bank charter; that is not material to my purpose. The state received the money, and she had a constitutional right to receive it in the way she did; if she invested it in the stock of an unconstitutional bank, of her own creation, such investment does not, in my judgment, weaken the obligation which she is under to pay it back. But the argument of its unconstitutionality, if solid, only applies to the first 500,000 dollars. The people of the state assembled in convention in 1832 to revise and amend their constitution. By the 9th section of the 7th article of the constitution which they then made, they imposed limitations and restrictions on the power of the legislature to pledge the public faith for loans of money. And now, as evidence that they were satisfied with the disposition which had been made of the 500,000 dollars, they expressly provided "*that nothing in this (9th sec. 7th art.,) shall be so construed as to prevent the legislature from negotiating a further loan of one million and a half dollars and vesting the same in stock reserved to the state by the charter of the Planters' Bank of the state of Mississippi.*"

It is now suggested that the convention did not mean to weaken or to give additional force to the pre-existing obligation incurred by the act of 1830. That they did not intend to incur an obligation even to pay back the "one million five hundred thousand dollars" which they were thus particular in reserving to the legislature the power to borrow. In short, that they meant to leave the whole matter where they found it. Such a suggestion does but little credit to the wisdom or integrity of the men who framed our constitution. They represented the sovereign power

of the state. They stood above the law and above all contracts, and especially were they above laws and contracts which were unconstitutional. And if the legislature of 1830, in its zeal to obtain money, had been hurried over the ramparts of the constitution, it was the duty of this convention, not to leave the matter where they found it; not to say go on and obtain more money by the same unconstitutional means; not to say you shall have power "to negotiate a further loan," but you shall have no power to pay back what you borrow—but it was the duty of the convention, by every sentiment of national faith, by the loftiest principles of honesty and fair dealing, to have abrogated the law, and to have forbidden the issuance of any more bonds. Failing to do this, and absolutely authorizing their issuance, the convention impliedly legalized all that had been done, and rendered the state firmly and fixedly liable for the one million five hundred thousand dollars, which it authorized to be issued. Let us deal honestly with ourselves, and we shall do no injury to others. Our unbiassed judgments tell us that the framers of our constitution believed that the first 500,000 dollars had been well disposed of, and they intended to obtain and invest one million five hundred thousand dollars in the same way.

But it is asserted that one generation cannot bind another to pay a public debt. The argument, *if plausible*, is not applicable to our condition. We are not the posterity of the men who lived thirteen years ago, but if we were, I should maintain, that if we transmit to those who come after us, our lands and the fulness thereof, it will be no grievous hardship, if we transmit with them such debts as we cannot, without serious privation to ourselves and our families, pay off and discharge. The fairest way, however, to answer the argument that posterity is not bound to pay our debts, is to pay them ourselves, and that is just what I recommend.

The first series six per cent. bonds (500,000 dollars) were issued in 1831, payable in four instalments of 125,000 dollars each. The first was due July 1st, 1841; the second will be due the first of July of the present year; the third July 1st, 1851, and the fourth July 1st, 1856. The second series five per cent. bonds (1,500,000 dollars) were issued in 1833, and are payable in three instalments of 500,000 dollars each, the first on the first day of March, 1861; the second March 1st, 1866, and the third March 1st, 1871. The interest on the first series was paid to July, 1839, and on the second to March 1st, 1839, since which time nothing has been paid. It will be observed that an instalment of 125,000 dollars has been due since July 1st, 1841; and it will be found on calculation, that there is interest due on the six per cent. to the first day of the present month 195,000 dollars, and on the five's 512,500 dollars, which two items being added to the 125,000 dollars principal makes an aggregate of 832,500 dollars principal and interest, due on the first day of this month, (January, 1846.)

It will be seen that the bonds draw an aggregate interest of 105,000 dollars annually, which is payable semi-annually on the first series, in July and January, and on the second in March and September, and that the principal falls due at periods of five years from one instalment to another. If the sum now due was paid, it would require only 130,000 dollars annually, up to July 1st, 1856, to meet both principal and



interest as it falls due in future, and after that time, 175,000 dollars annually to March 1st, 1871. It has already been seen that there has been paid into the treasury in auditor's warrants, on account of the sinking fund, 84,000 dollars: this sum, it is confidently expected, will be increased to 125,000 dollars by the first day of July, 1846.

The legislature need not be reminded that this fund stands pledged for the payment of these bonds. Nor do I deem it necessary to admonish you that no further delay should occur in its payment to the bond-holders, than is absolutely required by the embarrassments of the treasury. I hope indeed, it may be found expedient to make an appropriation at this session, payable in July next, of a sum sufficient to cover the amount of the sinking fund in the treasury at that date. If this cannot be done, there certainly can be no reason why it should not be paid in July, 1847, as by that time the treasury will have realized the revenues for the fiscal year 1846. The state has upwards of 22,000 acres of land belonging to the sinking fund: it would be well for the legislature to make suitable arrangements for selling these lands; and I recommend that the state commissioner be authorized to sell them for Planters' Bank bonds and coupons *that are now due* or for auditor's warrants. If properly managed they will go far towards liquidating so much of the debt as is now due and unpaid. If the legislature would authorize the commissioner to receive bonds and coupons due prior to January 1st, 1846, in payment of any debt due the sinking fund, I am persuaded it would facilitate collections and be of great advantage to the fund and to the state.

In view of the present condition of the state, I advise the policy of paying the principal and interest of her bonds as they fall due in future; and that she apply only the means which I have suggested, and such surplus funds as she may have from time to time, to the payment of that portion of the debt which is now due and unpaid.

Being in arrears, it will require an effort superior to the means of the state, to bring up the entire account at once; but if she sets out with a fixed purpose of meeting the debt hereafter as it falls due, it can and will be done. It has been shown that the revenue for the present year, will approximate four hundred thousand dollars. The expenses of the state government will not exceed 175,000 dollars per annum in future, including the interest on the school fund, admitting that my suggestions on that subject are adopted. After paying for the erection of the college buildings at Oxford, say fifty thousand dollars, and taking up the outstanding auditor's warrants, and meeting the economical expenses of the government, there will be a surplus this year; and next year, without an alteration in the laws which shall produce a reduction in the revenue, there will be a surplus of at least one hundred and seventy-five thousand dollars, and thereafter that amount annually, deducting fines, forfeitures, licenses and such other items as I have already recommended should be given to the school fund.

It will be seen that with these means, we can pay the bonds as they fall due, and have something left to pay on the account now due. If, in the end, we receive any considerable amount from the banks, it will come in time to pay a portion of the bonds which fall due some years hence.

The reduction made in the expenditures of the state government, by the act of the last legislature regulating salaries, &c., will greatly assist us in our effort to meet the public debt. It was a wise law, and admirably adapted to the embarrassed condition of our finances. The general anxiety among men of acknowledged talents, to accept office, is, perhaps, the best evidence that the salaries are high enough.

There may be a still further reduction of our expenses by a proper regulation of the circuit court practice in criminal business. One of the heaviest charges on the treasury, is the payment of costs where the state fails in the prosecution. If district attorneys were required, under proper penalties, to be constant in their attendance on grand juries, and clerks and sheriffs appropriately punished for neglect of duty, in failing to issue or to serve process, it would go far to remedy the evil.

There should be a day set apart by law for taking up the criminal docket, and when taken up, it should be disposed of without intermission or delay. In this way, multitudes of witnesses now detained at court from day to day, and finally discharged at the costs of the state, might be let off in half the time, and the business of the state be better, because more promptly attended to.

The census taken in 1845, a return of which is herewith transmitted, exhibits the aggregate white population of the state at 241,688. In apportioning the representation among the several counties, I respectfully suggest that the public interest may be promoted by reducing the whole number of representatives considerably below what it now is. Such reduction will lessen the expenses of the legislative department, and expedite the transaction of business, whilst it will not, I am persuaded, detract from the wisdom of legislation, or impair, in the least degree, its adaptation to the wants of the people. The Senate, though a smaller body than the House of Representatives, has always originated one half, at least, of the important business. Its deliberations have been marked with as much wisdom and courtesy as those of the House, and its business despatched in less time.

I estimate that the session may be shortened by the proposed reduction one fourth, which in a session of ordinary length, will be fifteen days. The legislature, with its present number of members, sits at a cost of about six hundred dollars per day, or nine thousand dollars in fifteen days, excluding appropriations and printing. The pay of members alone, is five hundred and forty dollars a day. If the number of members were reduced one-fourth, there would be a saving in this item alone, of one hundred and thirty dollars per day, which, in a session of forty-five days, approximates six thousand dollars. If the legislature thinks with me, that reducing the number of representatives will not impair the wisdom or utility of legislation, I am sure they will take pleasure in adopting my suggestions *as a measure of economy*.

When the people are heavily taxed, they have a right to expect a proper and economical use of the money; you will always be ready, I am sure, to devise means of your own, or to carry out the suggestions of others in the fulfilment of these expectations.

Complaints have been made that the taxes are too high. Coming, as you do, directly from the people, you are presumed to know more of their opinions on this subject than I do. Their will must be obeyed.

The people cannot be taxed against their consent. I hope they will not lighten their burdens at the expense of the public credit. On this point I defer to their representatives, but I should illy discharge my duty to them, if I did not say that the public credit is not in a condition to be sustained under any sensible reduction in the aggregate amount of the revenue. If the taxes are equalized in a greater degree, so as to distribute more justly the burthens of taxation, and yet not reduce the gross receipts into the treasury, I will be greatly pleased; but I should be sorry to witness any legislation calculated to relapse the credit of the state into that long and painful disorder from which it is but just now recovering.

The "quo warranto" act of 1843, has been a fruitful theme of controversy for some time past. Whatever may be said of that act, and the objects which it was intended to effect, it is undeniably true, that the legislature is under the strongest possible obligation to the banks and their debtors to pass such laws as will secure them "right and justice," without "denial or delay." If it is asserted that a banking corporation has forfeited its franchises, the question of forfeiture should be judiciously inquired into; and it is the duty of the legislature so to legislate, that the inquiry may be had without delay, and without perplexities or expense to either party, other than such as may be necessary for the full and fair administration of justice. What is to be the effect of a forfeiture judicially ascertained, as to the property of the corporation, or as to debts due to or from it, is a question properly referable to the judiciary, and with which the legislature and executive have no concern.

Unfortunately for the stability of our institutions and the safety of society, political communities seldom profit by the experience of the past. The lessons which were taught us during the banking mania in this state—the deep and vital wounds which were inflicted on the morals and good order of society, will be entirely forgotten in the lapse of a few years. Whilst the recollection of these events are fresh in our minds, it will be well if we make an enduring record of the hostility they have engendered to banks and banking; and to this end I advise an amendment of the constitution, for ever prohibiting the establishment of banks in this state.

A letter from the United States ordnance department is herewith transmitted. It shows that from our territorial organization to 1843, there have been sent to Mississippi, arms and accoutrements to the value of sixty-four thousand dollars. The report of the Quarter-Master General will exhibit the present condition of these arms. The state is now in the annual receipt of four hundred and forty muskets, which, valued as they are by the United States, at thirteen dollars each, are worth five thousand seven hundred and twenty dollars. The number will increase with our increasing population. It will be seen that almost all the arms heretofore sent to the state have been wasted. The prime cause of this has been, that the state has never provided a place for their safe keeping.

I recommend the erection of a public armory in this city, in which all arms and accoutrements, not in actual use, shall be kept. The greater portion of the work may be done by the penitentiary convicts, so that

the actual outlay of money need not be great. This being done, there should be appointed a quarter-master and an assistant, to superintend the armory and take care of the public stores. All volunteer companies now having, or hereafter receiving arms from the state, ought to renew their bonds every year, and give such additional security as the quarter-master may require.

I believe the public interest requires, and the public voice demands, a change in the militia system. The trainings, under the present law, are attended with a loss of time and annoyance to the people, greatly exceeding any real benefit which they derive. It is a very great mistake that militia musters prepare the people for actual service, or train them to a soldier-like use of arms. They go to muster for the most part, to amuse and be amused, regarding the whole affair as an expensive farce; they perform their parts for the fun, and not the profits of the play, and are always glad when it is over.

There are now in this state about forty-five thousand persons subject to militia duty. If they are required by law to drill only four days in each year, there would be lost in time 180,000 days. Time, to a man of enterprise, is money. Suppose each day to be worth fifty cents, and there is an aggregate loss of ninety thousand dollars. The law, such as it is, I have endeavored to see enforced, I regret to say with ill success. The people are opposed to it, and many of them can neither be persuaded or coerced into obedience to it. Some obey and some do not. This engenders a spirit of jealousy, as to the injustice and unequal operations of the law. The disobedience of some encourages disobedience in others, and a disregard of law in one respect begets a disregard of it in another. Under such circumstances it becomes a question for your serious deliberation, whether you will not abandon the present, and adopt some new system.

Looking to the possible disturbance of the country, by invasion or internal commotion, the present law ought not perhaps to be repealed. It might be suspended in its operations and put in force on any sudden emergency, by an executive proclamation. The active military force should consist of one volunteer company in each regiment, which contains five hundred or more efficient men. These companies should be required to train at least one day in every month; and for this service, the members should be exempted from road and jury duty.

The public arms should be distributed to them from the state armory by the quarter-master general, who should also be a competent drill master; and it should be made his duty to visit each company once in every year, under the direction of the governor, and drill two entire days. For this purpose, the quarter-master should receive a competent salary; and his assistant, whose duty it should be to superintend the business of the armory, in the necessary absence of the quarter-master, should have a fair compensation also. It will be seen on examination, that the money drawn from the treasury, under this system, will be less, by some hundreds of dollars, than under the system which now exists.

The companies should contain sixty-four members each, eight to be taken from each captain's beat in the regiment, and in case more than eight should offer, let it be determined by lot who should serve. Va-

cancies should be filled by election ; and if at any time a company was found to have neglected its duties grossly, either in not drilling or not taking care of its arms, or in failing to enforce the discipline of the corps, such companies should, on the certificate of the drill master to that effect, be disbanded by the governor.

The employment of the penitentiary convicts in the mechanic pursuits, continues to be a cause of complaint. These complaints are well founded in some respects, and demand, as they will doubtless receive, your respectful consideration. I have collected sundry reports and other papers on this subject, which I have the honor herewith to transmit to the legislature. I invite special attention to the letters from the Ohio and Louisiana superintendents of state prisons. It seems evident in a country like ours, which consumes so large a quantity of woollen and coarse cotton goods, that they may be manufactured to advantage ; and I do not therefore hesitate to invite the legislature to embark a portion of the labor of the prison in the fabrication of these articles, with a view to its ultimate conversion into a manufacturing establishment should the experiment succeed. If the state purchases slaves to carry on her public improvements, provision should be made by law for having them clothed from the penitentiary.

The report of the inspectors and officers of the penitentiary, for the year 1844, exhibits the net profits of the institution at \$1337, and the report for 1845, shows the net profits for that year to have been \$5110.02. Both reports are herewith sent to the legislature.

We have never provided an asylum for lunatics, nor a refuge for the insane, in this state. The best feelings of humanity require that this omission should be supplied. I recommend that suitable buildings be erected, and such other means adopted as are best suited to the condition of this unfortunate class. The buildings need not be costly, nor the arrangement for the maintenance of the lunatics very extensive for some years to come ; both, however, should be equal to the present wants of the country.

The legislature, at its last session, proposed two amendments to the constitution : the first was in regard to slaves, and the second was a proposition, in substance, to divide our judicial from our political elections. The required notice was given through the public gazettes, in both cases, by the secretary of state. The first of these amendments, in regard to the slaves, has received the required number of the popular votes, and needs only to be inserted, by order of the legislature, to become a part of the constitution. The second proposed amendment did not, I regret to say, receive a constitutional number of votes, and is, therefore, lost for the time being. I regard this as the most important of the two proposed amendments, and the returns show that it is favorably regarded by the people ; a large majority of those voting on the question, voted for it, but they have fallen short of a majority of the whole vote cast for members of the legislature. I recommend that the question be re-submitted in 1847. The main object of its friends will be attained if it passes then, as, with a single exception, the judges now in office, retain their places till 1849.

Most of the states of the Union have proposed an interchange of laws, reports and legislative documents. In the absence of any legislation on

the subject, I instructed the secretary of state to send ours in exchange for such as were sent to us. This course, I hope, will meet the sanction of the legislature, and that authority will be given to pursue it in future, otherwise it will be abandoned.

Complaints are frequently made that difficulties are encountered in procuring the proper acknowledgments of deeds and other instruments of writing, in the different states, to be used in this state. The evil has been remedied in other states, and may be in this, by the appointment of a commissioner to take these acknowledgments, who shall depend for his compensation entirely on the perquisites of office, and who shall reside at the principal commercial point in the state for which he is commissioned.

The report of the state commissioner herewith transmitted, will bring you acquainted with the progress made in the business intrusted to his charge. The present condition of the several funds under his management, seems to render it necessary that power should be given to effect compromises. I invite your attention to his suggestions on this point. It appears to me that the interest of the state will be secure, if the commissioner is allowed to make compromises under the legal advice of the attorney-general, subject to the approval of the governor.

I herewith transmit the report of the commissioner of the seminary fund, and a communication from the attorney-general. From these you will learn the condition of the several matters intrusted to their official charge. Communications from the adjutant general and the quarter-master general, are herewith enclosed. These reports and communications make it manifest that greater security should be required of those having the custody of the public money and property. I recommend that hereafter all bonds taken for the safe-keeping of the public money and property, shall operate as a judgment lien on the property of the obligors.

The accompanying correspondence with the stockholders and assignees of the Mississippi Union Bank, will acquaint you with the fact, that five millions of dollars in state bonds, issued on account of that institution, were delivered to me on the 14th of April, 1844. The bonds were deposited in the state treasury, and were cancelled by my direction.

On the 21st of February, 1845, I received the resignation of the Hon. R. J. Walker, United States senator from this state, and immediately thereafter tendered the appointment to the Hon. Jacob Thompson, who declined it. On the third day of November last, I appointed Joseph W. Chalmers, Esq., of Marshall, to fill the vacancy, and that gentleman is now in the discharge of his duties at Washington, where he will remain until a successor, elected by the legislature, is sent on.

I have the honor to transmit resolutions of the Texan Congress, passed June 21st, 1845, tendering to General Andrew Jackson the tribute of a nation's gratitude. It was not given to the venerable patriot to receive this tribute. He died at the Hermitage, 8th June, 1845, full of years and full of honors. The resolutions are not more honorable to Texas than they would have been gratifying to the eminent man for whom they were intended, had it pleased Heaven to lengthen out his days until he had received them.

The perusal of these resolutions awakens in our minds the liveliest recollections of a man who has left the impress of his mighty intellect on all the interests and institutions of his country. He was ever the fast and unchanging friend of Mississippi. Firm and inflexible in his purpose, wise in council and terrible in war; he possessed a mind to comprehend and will to serve our wants—his was a heart without guile, and in his bosom the fires of patriotism never went out. Whether in the field, at the red man's council fire, in the Senate or chair of state, or in later years, when stricken by time, we see him bowing before the altar of the great I AM, his cares, his toils, his affections and his energies were given—always given, to his country. He has descended to the tomb, but it is left with us to manifest our respect and veneration for his name. In token of the deep sense of gratitude which we feel for the past political and military services of this great man, I respectfully suggest that one of the niches in the rotunda of the capitol be filled, by order of the legislature, with his statue in marble. And as he was in life purely an American—in mind, body and soul, wholly and entirely an American citizen—this tribute will only be complete when the work is done by an American artist in American marble.

Resolutions from the different states have been forwarded to me from time to time, with requests that I should submit them to the legislature. They relate to a great variety of subjects, some of which may require your attention. They are submitted to your consideration.

Of the contingent fund of the executive department, I have

paid out on account of 1842-3,	.	.	.	.	\$421.00
“ “ “ 1844,	.	.	.	.	3629.89
“ “ “ 1845,	.	.	.	.	2905.85

for which I shall be pleased to exhibit vouchers to a legislative committee.

A book, of great value in the administration of our probate laws, has been compiled and published by Ralph North, Esq., of the city of Natchez. I recommend that a sufficient number of volumes be purchased by the state, to supply the several probate courts and the state library.

I have thus, gentlemen, at the hazard of being tedious, given you my views on such subjects as, in my judgment, merit your attention. The absence of the legislature for two years has permitted a great number and variety of subjects to accumulate, the presentation of which, to your consideration, has required unusual space. Apologizing for any unnecessary prolixity in this communication, I conclude with an earnest invocation to the Divine Power so to direct your councils that all your acts may redound to the happiness of the people and the glory of our common country.

A. G. BROWN.

EXECUTIVE CHAMBER, January 6, 1846.

## SECOND INAUGURAL ADDRESS,

UPON THE COMMENCEMENT OF HIS SECOND TERM AS GOVERNOR, DELIVERED JANUARY 11, 1846, BEFORE THE TWO HOUSES OF THE MISSISSIPPI LEGISLATURE.

FELLOW-CITIZENS: Honored by you with a re-election to the office of Governor, I appear before you a second time, to renew my obligations to support your constitution, and faithfully to discharge my duties. In doing so, allow me to enter into covenants, again to requite your generous confidence, by a continued watchfulness over all your varied interests.

Two years have now passed away since I entered, with trembling anxiety, on the high duties to which your partiality had called me.

You have passed your verdict of approval on my conduct, and I thank you—from a heart full and overflowing with gratitude I thank you. I enter on a second term with increased anxiety—and with a determination, quickened by your approval of the past, still to merit your confidence, and to retire from your service without having forfeited your good opinion. To be chosen from fifty thousand voters, to administer the affairs of a sovereign state, is a distinction of which any man may boast, but which no one has a right to claim. I have it by your sufferance—it shall be my constant effort to wear it without reproach, and to surrender it without dishonor.

Indulge me, fellow-citizens, in a remark or two touching the present attitude of our state, her future prospects, and the means to be employed in advancing her to greatness and glory. Proud as I am of Mississippi, the home of my childhood, and of my maturer years, I am prouder still of her attitude before the world, of the noble bearing which she exhibits amid the reproaches and contumely cast upon her. Is she accused by bankers and bonders of pestilential and seditious conduct, and of being “a ringleader of the sect” called *repudiators*? She answers as did Paul before Festus. “I stand at Cæsar’s judgment seat, where I ought to be judged: to the Jews have I done no wrong, as thou very well knowest. For if I be an offender, or have committed anything worthy of death, I refuse not to die; but if there be none of these things whereof these accuse me, no man may deliver me unto them. I appeal unto Cæsar.” Mississippi is to be judged by her own written constitution; if against that she has offended, she expects to be reproached, but if she has not, no man may deliver her into the hands of Jewish or other bond holders. She appeals to the constitution.

This day fifty thousand hearts, scattered over the broad surface of Mississippi, swell with emotion, as fifty thousand freemen turn their eyes towards this city to behold the actions of their representatives assembled here. The state has been maligned and her fair fame traduced by those who are ignorant of her cause, or, knowing her to be right, refuse to do her justice. She has taken her position, and from it she



will not depart. The shafts levelled at her honor fall harmless at her feet, because they come not from the hand of justice. Let those who are the guardians of her unsullied fame preserve it free from taint or blemish. You stood by her in her noble attitude of vindicating her constitution, in refusing to pay demands contracted in its violation; stand by her with equal firmness in her no less lofty attitude of vindicating that constitution still further by paying debts contracted by its approval and sanctioned by its language. If Mississippi was called upon by her constitution to reject the Union Bank bonds, that same constitution bids her pay those of the Planters' Bank "to the last mill." I will not ask you if it shall be done, because I will not ask you if Mississippi shall be dishonored.

What are the future prospects of our state, and how shall we advance her in the highway to glory and renown? are questions to be determined by your action. With a fertility of soil equal to any in the world; with the mighty river of her own name, so aptly termed "an inland sea," washing her western border for more than four hundred miles, and bearing upon its bosom the richest product that ever rewarded the toils of man; with navigable rivers like arteries running from her heart to all her extremities; with salubrity of climate equal to Italy, and a population the bravest and best on God's earth, there is not a land of fairer promise, nor one which may aspire to a higher or a more glorious destiny. How shall we assist her? Let a portion of our energies be directed to internal improvements. The day will come when Mississippi should be spanned from east to west by a great central railroad; when the waters of the Mississippi should be fenced in, and the fertile lands on its borders be made to throw their rich treasures into the pockets of our people. It was improvements like these that added millions to the wealth of New York, and gave immortality to the name of Clinton. These improvements cannot be made the next year, or completed perhaps by this generation; but the natal energy and indomitable perseverance of our people will sooner or later carry them out. It is our duty to commence them.

There is a feature in the character of this state which the historian cannot pass by in silence. It is the independence which marks her conduct. Determining for herself what is right, she fearlessly pursues the conviction of her own judgment, regardless of the opinions and conduct of others. She was first to elect judges by the people; she first established a purely metallic currency, and, amidst the taunts and jeers of friends and foes, she first stood up in the face of the civilized world and refused to pay an unconstitutional debt contracted in her name. A state which thus pursues its own inclinations, and which has already invested its people with more power than any other in the Union, or perhaps in Christendom, should be the foremost in giving universal instruction to its people.

An ignorant multitude, excited by some fancied wrong, and led by some daring and popular demagogue, may, in a single hour, commit breaches in the fabric of our government which the wisdom and ingenuity of ages may not be able to repair. The educated masses are never frenzied thus; appreciating the blessings of liberty, they will never commit excesses in its name. Then by every consideration of patriotism;

by your love of liberty; by the devotion which you bear to your offspring; by the safety of your firesides; and the accumulated wealth of years of toil; by the holy religion of your fathers; by all that you hold dear in this world, or sacred in the world to come, I exhort you to spread the blessings of education among the people!

The legislation of this country is wisely divided into state and national. As a member of the great family of states, we are the victims or beneficiaries of national legislation as chance may direct, our voice being as one to fifty in her councils.

Whilst we direct our domestic legislation so as to develop the resources of our state, and secure to ourselves and our property the blessings of liberty in a free government, may we not, in earnest and respectful terms, address our petitions and our remonstrances to the federal legislature, so to govern its councils as not to retard us in our onward march to prosperity and happiness? Nay! whilst others are the recipients of governmental favor, may we not ask for justice? If the tariff oppresses us, may we not ask that it be relaxed? If *protection* retards us, may we not ask that it be removed? Our cotton whitens every sea, and enlivens every port. It is the axis on which the commercial world revolves. Shall Congress restrict us to a home market, and call this protection? verily, "it is such protection as vultures give to lambs." No, let Congress protect us in foreign lands; let Congress protect us as we float on every sea, and barter in every port, and we will protect ourselves and our government at home.

Millions on millions of the nation's money is yearly lavished in developing the resources and advancing the prosperity of other states, under the specious pretext of "providing for the common defence and the general welfare." Mississippi has remonstrated, and her remonstrance has not been heard; she must stand firm on the broad platform of the constitution, and as she grows older and stronger she will increase in the compass and strength of her appeals for justice. She asks for nothing from the nation's coffers to her local works; but she asks for "defences" commensurate with her commercial importance, and such as are demanded by her position in the Union, and her contributions to the national wealth. Our southern coast for three hundred miles is undefended; scarcely a light-house to direct the storm-beaten mariner has been erected. Not an arsenal nor a fort is built on our shores. The nation, liberal to others, but parsimonious to us, has not even surveyed our coast. A harbor equal to almost any on the Atlantic, was better known to British seamen in 1812-15 than to American statesmen in 1846. Are we members of the same family, or are we strangers to the sisterhood of states, that our interests are thus neglected and our safety set at nought?

If it were competent for Congress to aid in the construction of the Wabash Canal, with a grant from the public domain, why may not the rivers that span our state in all directions, and bear upon their bosoms the rich products of our soil, demand like contributions from the nation's bounty? The Pearl, Yazoo, Black, Tallahatchie, and other rivers, are as important to us in their navigation as the Wabash Canal can be to any portion of the western people.

For years and years, Mississippi has appealed, but she has appealed

in vain, for a graduation in the price of the public lands. The older states have clung to these lands with a miser's iron grasp. Gloating over the prospect of gain, they have regarded each dollar wrung from the reluctant grasp of the hardy settler, as so much added to their coffers. In a lucky hour the principle of graduation was ingrafted into the treaty with the Chickasaw Indians. Witness its fruits. In ten years, the lands ceded by the Chickasaw tribe, have made more advances in population and in agriculture than those in the Choctaw cession have in twice that number of years. We have seen the less productive lands in the Choctaw cession go uncultivated for almost a quarter of a century, and a thrifty population, such as would do credit to any state, driven west, where the more liberal government of Texas gave them lands on better terms. Our appeals must be renewed. The policy of the United States will ultimately induce her to listen to our petitions.

The feeling is now for war—war with England; a war in which we are to be the greatest sufferers. This war will give impetus to New England manufactures, and open new and profitable markets for western produce: to us it will bring blight and desolation. Our hearths, now happy and cheerful, will become lonely and desolate—our fields, no longer covered with a snowy white staple and enlivened by the negro's happy song, will grow up in thorns and thick weeds, and become the resting place of reptiles and ill-omened birds. *Yet are we ready for the crisis.* Let no one doubt our fealty to the general good—let no one say that Mississippi will be unfaithful to the nation's honor—let her but know that her cause is just, and she will march to victory or death. Let the nation be faithful to herself and us—let her stand by her President, who “has asked for nothing but what is right,” and who has already sworn, upon the altar of his country's glory, that “he will submit to nothing which is wrong;” and if for this England wages war upon us, why, let it come—in God's name let it come. In such a cause, there is not a tongue that would not cry for war; and though houses were burned and cities sacked, and though biting hunger should even claim us for his victims, still our voice would be for war—and our mothers, the matrons of the land, would cheer us in this goodly work. Like the mother of the Spartan heroes, they would bid us return from such a conflict “with our shields, or upon them.” With England must ever rest the question of peace or war. We crave an *honorable* peace, and if this be denied us, we ask for war. I pray that justice may hold the scales in the hands of England, and that the genius of peace may preside over her deliberations.

With no disposition to trespass further on your indulgence, I conclude with an earnest wish that you, the people, may be united in all your efforts to promote the public good; and that the counsels of your representatives, under the supervision of Divine Providence, may be directed to the union of the states, the happiness of the people, and the perpetuity of liberty, and universal peace among men.

ALBERT G. BROWN.

## FIRST THANKSGIVING PROCLAMATION IN MISSISSIPPI.

THE year eighteen hundred and forty-seven draws to a close. Its seasons have been propitious beyond precedent. The toils of the husbandman have been rewarded with an abundant harvest. Health has blessed our state, and general prosperity is everywhere visible. The earth has yielded its fruits in rich abundance to supply our wants, and minister to our comfort.

A glowing patriotism, and a steady devotion to the laws and constitution, under which our state has attained her present enviable rank in social order, wealth, population, learning, and religion, continue to pervade all classes of her citizens.

The beneficent beams of a common Christianity, undimmed in their lustre by any collision of sects or interference of legislation, shed their rich blessings upon a people capable of appreciating and willing to acknowledge their obligations to the Great Ruler of the Universe on this behalf.

Under the smiles of Providence, these states have grown, prospered, and multiplied, until they constitute a great and powerful nation; with whom agriculture, commerce, the arts, sciences, and literature, have flourished as in no other country in modern times.

Unhappily, involved in war! Under the eye of God, by the valor of our troops and the skill of our officers, the arms of our beloved country have everywhere been victorious.

These, and innumerable other blessings and benefits of a kindred character, constantly flowing upon our state and nation, call for devout thanksgiving to the bountiful Giver of every blessing.

I therefore, in obedience to the expressed wish of a large number of Christian professors, as well as in pursuit of my own inclinations, respectfully recommend Thursday, the twenty-fifth day of the present month (November), to be observed as a day of public and general thanksgiving, that the people of the state, abstaining from their ordinary business avocations, may assemble in their usual places of religious worship, and, uniting with each other, and with their fellow-citizens of many other states, may pay their tribute of thanks to the Author of all our spiritual and temporal good gifts—and may pour out their hearts to Him that his rich smiles may be continued to our state and nation, through each cycle of their future existence, and that the abundant blessing of this year may be crowned by the termination of the existing war in an honorable and just peace.

In testimony whereof, I hereunto set my hand, and cause the  
[SEAL.] seal to be affixed, November 5, 1847, at Jackson.

A. G. BROWN.

By the Governor.

WM. HEMINGWAY, Secretary of State.

## LAST ANNUAL MESSAGE AS GOVERNOR OF MISSISSIPPI.

FELLOW-CITIZENS OF THE SENATE AND OF THE HOUSE OF REPRESENTATIVES: It affords me pleasure to greet you on your assemblage at the seat of government, with a statement of the improved condition of our public affairs, and to congratulate you upon the general prosperity which pervades the country.

Although, from providential causes in 1846, and commercial revolutions abroad in 1847, the profits of the planter have been somewhat diminished, his income has been large, and, all things considered, persons engaged in agricultural and other industrial pursuits have greatly prospered. Taxes have been paid without murmuring, and accounted for by collectors with unusual punctuality. The treasury, having recovered from its embarrassments, has continued for two years past, without intermission, to pay all authorized demands upon it, and now contains a surplus of \$115,755.41, exclusive of the two and three per cent. funds. A summary of the biennial receipts and disbursements, on account of taxes, presents the following result:—

Taxes for 1845, received in 1846,	\$351,278.72
“ “ 1846, “ “ 1847,	328,407.16
	<hr/> \$679,685.88
Disbursed in 1846, . . . . .	\$380,437.97
“ “ 1847, . . . . .	233,521.73
	<hr/> \$613,959.70
Excess of receipts over disbursements, . . . . .	65,726.18
Exclusive of \$50,029.21, received from miscellaneous sources in money, and \$18,000 in Planters' Bank bonds.	

The Auditor's reports show warrants issued prior to and outstanding,	
January 1, 1846, . . . . .	\$271,749.71
Issued in 1846, . . . . .	227,055.51
“ “ 1847, . . . . .	152,191.21
Whole amount issued to January 1, 1848, . . . . .	650,996.43
“ “ redeemed from January 1846 to 1848, . . . . .	613,959.70
Exhibiting warrants outstanding this day, . . . . .	37,036.81

Against a surplus in the treasury of \$115,755.41, or an excess of present means, over present liabilities, of \$78,718.60.

It will be seen that there is a diminution in the revenue for 1846 (received in 1847), as compared with the year previous, of near twenty-three thousand dollars. This is attributable to the revenue law of the last session of the legislature. But for that law, the constantly increasing wealth and population of the state would have augmented the revenue near ten thousand dollars in 1846-7, and this sum would, by the same means, have been increased each succeeding year; and thus the state, without any sensible effort on the part of her citizens, would, by the power of her natural growth, have risen superior to all future embarrassments. If there is any one thing in which, above all others, the state

may invoke the forbearance of her law-givers, it is in this matter of improvident interference with her revenue laws. It will be seen by a just investigation of our indebtedness, as compared with our resources, that the state has use for even more revenue than would have been realized under the law as it existed in 1844-5.

The assessments for the year 1847, but little of which has yet been paid into the treasury, amount to about three hundred and seventy-five thousand dollars. After making reasonable deductions for assessing, collecting, and insolvencies, the amount to be received will not vary much from three hundred and thirty thousand dollars. The expenditures for the present year are estimated at two hundred and ten thousand dollars. So that the receipts will probably exceed the disbursements one hundred and thirty thousand dollars; which, added to the surplus now in the treasury, would give us two hundred and forty-five thousand seven hundred and fifty-five dollars and forty-one cents, at the end of the year. The state is indebted to the sinking fund ninety-five thousand dollars, and to the seminary fund about sixty thousand dollars; and these sums ought to be provided for. Special reference will be made to them hereafter.

For a more perfect understanding of the financial condition of the state, and the practical operations of the existing revenue laws, reference is made to the voluminous and very satisfactory report of the late auditor, James E. Matthews, Esq., herewith transmitted to the House of Representatives. The report has been prepared with great care, and presents, in a clear and comprehensive light, the affairs of the department over which the late auditor has presided with ability and fidelity for the last six years. It is worthy a minute investigation, and is earnestly recommended to the attention of the legislature and of the country.

In estimating the indebtedness of the state, the bonds issued on account of the Planters' Bank have been included. My last general message conveyed to the legislature and the country my views as regards the state's liability to pay these bonds. These opinions have undergone no material change, but a reiteration of them is uncalled for, and would be unprofitable at this time. Having long since settled in my own mind, that the state is bound by every obligation that the constitution and the laws can impose, to pay the debt, it has only remained to devise some means acceptable to the people, and not too oppressive, by which it could be done. The whole subject has been calmly considered; and however it may be regarded by others, there is, to my mind, but one course to be pursued worthy the character of a great and growing state, and that is to raise the money by taxation and discharge the debt as rapidly as possible. That course is respectfully but earnestly recommended. The debt now stands as follows:—

Bonds issued in March, 1833,	\$1,500,000
6 per cent. interest from March, 1839, to January, 1848,	794,000
Bonds issued in July, 1831,	500,000
6 per cent. interest from July, 1839, to January, 1848,	255,000

Total,	\$3,050,000
Subject to a deduction of twenty-four thousand three hundred and	

forty-one dollars, in bonds and coupons, paid into the treasury by the state commissioner, or now remaining in his hands, for an account of which reference is made to the report of that officer.

The annual interest on the bonds, it will be seen, is one hundred and twenty thousand dollars. The probable receipts for the present year, under the existing revenue law, as we have seen, will be three hundred and thirty thousand dollars, and the expenditures (including the legislature) two hundred and ten thousand dollars, so that the sum remaining in the treasury, after defraying the ordinary expenses, will not be sufficient, at the present rate of taxation, to pay more than the interest accruing; thus leaving the principal and back interest wholly unprovided for. It has been proposed to apply the state lands to the payment of this debt. My solemn protest is hereby rendered against such a proceeding—first: because the land having been given for other purposes, we have no right to use it in this way. Secondly: because we ought not so to use it if we had the right; if we owe the debt at all, we owe it in money, and ought to pay it in money. Thirdly: because it is just as well to levy taxes to pay the bonds as to levy them to pay for the land. Fourthly: because if we do not intend to pay for the land after using it in paying the bonds, we mean to violate our faith with the United States, who gave it for purposes of internal improvement.

The relation which the sinking fund bears to these bonds may be easily explained. The bonds were sold, and the proceeds invested in Planters' Bank stock; the dividends on this stock were pledged for the redemption of the interest on the bonds, and the interest being paid, the surplus dividends constituted a sinking fund. The bank for many years declared large dividends, and the surplus accumulated to several hundred thousand dollars. The president and cashier of the bank, and the auditor of public accounts, constituted a board, authorized by law to manage this fund. The legislature, in 1844, being dissatisfied with the management of this board, ejected them, and ordered the appointment of a commissioner to take charge of the fund. This officer has collected and paid (most of it) into the treasury about one hundred and nineteen thousand dollars, of which twenty-four thousand three hundred and forty-one dollars is in the bonds and coupons of the state. The remaining ninety-five thousand dollars belongs of right to the bondholders, and its immediate appropriation for their use is earnestly recommended. The state has no earthly claim to it. If the principal sum was not borrowed on the bonds of the state, she can have no claim to the dividends accruing from its investments. If it was so borrowed, then she contracted a debt in borrowing it, for the redemption of which this fund stands pledged. It cannot be, therefore, that any man of any party will be found to oppose the immediate application of the amount now in the treasury, to the credit of the sinking fund, to the payment of the bonds as far as it goes.

The two per cent. fund amounts to about two hundred and ten thousand dollars. Of this sum, one hundred and forty-six thousand eight hundred and twenty-three dollars was received by me, under the authority of an act of the late legislature, and one hundred and forty-three thousand eight hundred and thirty-one dollars and seventy-one cents, paid immediately after its receipt, to wit: February 6th, 1847.

The remaining two thousand nine hundred and ninety-one dollars was retained by me to meet certain extraordinary contingencies, and will be accounted for in another communication. Of the sum received by me and paid in, one hundred and thirty-six thousand seven hundred dollars was in United States treasury notes, drawing an interest of 5 2-5 per centum per annum. The interest increased a fund for which the state had no immediate use, and the warrants were more conveniently kept than specie; for these reasons they were taken in preference to gold and silver. In addition to the sum in the treasury to the credit of this fund, there is justly due it about thirty-five thousand dollars on account of Graves's defalcation. It is not probable that any considerable part of this sum will ever be recovered. The securities once offered to pay twenty thousand dollars on the whole defalcation of forty-four thousand dollars for a final discharge—no one was authorized to compromise for the state, and the proposition was not therefore accepted. It is not certain that the offer will be renewed, but power to settle by compromise should be given to the governor or some other officer: otherwise it is my opinion nothing of consequence will ever be obtained.

The Southern Railroad Company, to which this fund was given under certain limitations, by an act approved February 23d, 1846, has not been organized in conformity with the act, and no part of the money has therefore been used for the construction of the road. It is presumed that the company will organize at no distant day, and the fund should be retained in good faith, and applied to the construction of the road whenever it can be done with advantage to the public.

Whether it will be better to direct its immediate application, or to delay until other means can be obtained to assist in carrying on the work, is a matter worthy of the serious deliberation of the legislature. My own opinion is in favor of the application. The road, if constructed twenty miles beyond Jackson, would support itself and pay a small dividend on an investment of two hundred and fifty thousand dollars. Its advantages to the eastern part of the state would be very great. Should the legislature deem the immediate application of the fund inadvisable, it ought at once to be put at interest for the future benefit of the road. United States six per cent. bonds offer the best security, and its investment therein is most respectfully recommended.

The whole amount of lands registered on account of the five hundred thousand acres, is five hundred and twenty-nine thousand six hundred and ninety-six acres, and about twenty thousand acres have been located by the commissioners of the state and not yet registered. The reason for locating so large an excess, is to provide against rejections by the secretary of the treasury in consequence of pre-emption rights and other conflicting claims. Thus far, three hundred and fifty-four thousand and thirty-four acres have been approved by the secretary of the treasury, and for various reasons sixteen thousand two hundred and seventy-five acres have been rejected. One hundred and ninety-four thousand and twenty-five acres have been registered to the credit of the Chickasaw school lands. Of this amount one hundred and twenty-three thousand six hundred and forty-two acres have been approved by the secretary of the treasury, and five thousand three hundred and sixty-eight acres rejected. It is not doubted that enough has been secured



by location and registration to cover both grants after every reasonable deduction shall have been made. Should the lands be offered for sale, it must be recollected that the state's title is not perfect except to such parcels as have been approved by the secretary of the treasury. As the record made by the secretary of state, of the lands *registered*, is necessarily rendered incorrect and uncertain by the numerous *rejections* subsequently made at Washington, it will be proper to require another record of the lands as approved. The corrected lists have been deposited with the secretary of state. The attention of the secretary of the treasury has been called to the unapproved locations, and he has been requested to dispose of them at as early a day as possible. The multiplicity of that officer's engagements has prevented his compliance with the request up to this time.

In despite of every reasonable precaution to prevent it, locations have sometimes been made on tracts in the actual occupancy of settlers, they having neglected to declare their intention to remain, and thereby secure pre-emptions according to the act of Congress. The state had the legal right to make the location, yet she ought not to take advantage of her citizens. Liberal legislation in regard to these settlers is respectfully recommended.

The opinions advanced by me in my last communication on the subject of disposing of these lands, have undergone no material change. The five hundred thousand acres can be used for no other than purposes of internal improvement. Of such improvements the state is in great need. The levee on the Mississippi, and the navigation of our interior rivers, are objects worthy of liberal appropriations in land, or in money if the lands are sold. The best interest of the state forbids the sale of the lands at a price below their actual value. The five hundred thousand acres belong to the whole state, and the school lands to the Chickasaw counties. No one person has the right therefore to appropriate any part to himself without paying a fair equivalent to all the others in interest. Should pre-emptions be granted, it should be done with caution, and at a price not below the fair value of the land. The legislature ought, in my opinion, to fix the minimum at eight dollars the first year, seven the second, and so on down to one dollar per acre.

Persons have been in the habit of committing depredations on the public lands, which it has been my anxious desire to prevent. Considering it within the *spirit* of our legislation to encourage actual settlement, it has not been my purpose to molest those who have sought a home on the lands of the state; but other persons, and some of them non-residents of this state, have gone on these lands and cut down and rafted away large quantities of timber, thereby lessening, and in some instances wholly destroying, their value. The law for the punishment of such offenders has been found uncertain and insufficient. Your attention is called to the subject in the hope that it may receive early and prompt attention.

The state holds the title to large quantities of land bought by her for taxes. The owners have manifested little or no disposition to redeem it. It would be well to direct the auditor, or some other officer, to sell it at private entry, giving a quit claim at a price sufficient to pay all arrearages for taxes.

The buildings for the State University at Oxford are progressing as rapidly as could be anticipated. And it is expected that the institution will be opened for the reception of students sometime during the present year. The location is a healthy and pleasant one, in the midst of an intelligent and growing population; and though not the most central that could have been selected, all things considered, it presents as many advantages as any other point. In view of the constantly increasing demand for such an institution, it is sincerely hoped that it will receive the support of our people, and the fostering care of the legislature. Long years of neglect have dissipated a large portion of its once magnificent endowment, but enough has been saved from the general wreck to establish the institution on a respectable and safe footing. In my last general message, the legislature was informed that about one hundred thousand dollars of the University Fund had been lost by an improvident investment in Planters' Bank stock. My reasons were then given for thinking the state bound to make indemnity for the loss, and, though not now repeated, they are still entertained. The auditor's report shows there to be in the treasury, to the credit of the University, sixty thousand eight hundred and fifty-nine dollars and seventy-seven cents, independent of the fifty thousand appropriated in 1846, for the erection of buildings. There is, in the commissioner's hands, detained under an injunction in chancery, six thousand six hundred and thirty-two dollars, of which his report will give you a detailed account. And there is due the fund, in solvent debts not yet collected, twenty-five thousand dollars: thus the whole funds of the Institution amount to near ninety-three thousand dollars, exclusive of the Planters' Bank debt. It is hoped that no further appropriation will be required for building purposes, and that whatever sum is ascertained to be due the University, will at once be put at interest. The state, in my opinion, should retain the principal and pay the interest for the benefit of the Institution in semi-annual instalments.

The common school law of the last session has not fulfilled the anticipations of its friends. The report of the secretary of state, herewith transmitted, will bring you acquainted with its operations. Its immediate repeal, and the substitution of an act more in accordance with the suggestions contained in my message at the opening of the session in 1846, is respectfully recommended.

The educational wants of the state require the establishment of a normal school, where young gentlemen and ladies may be educated for the profession of teaching. The want of competent teachers is very sensibly felt, even by those who have the means to educate their children. An interesting paper on this subject, drawn up at my request by the Hon. J. S. B. Thatcher, is herewith transmitted. The subject has been so fully considered as to supersede the necessity of my pursuing it. The views of Judge Thatcher meet my cordial approbation, and are therefore recommended to your favorable consideration.

The Rev. Mr. Champlin, a blind philanthropist, has been for some time engaged in the humane work of teaching the blind. He has received the aid of many charitable persons, and intends making application to the legislature for further assistance. Many of the states of

this Union have properly lent their assistance to this benevolent work, and no doubt is entertained that Mississippi will follow their example.

Although opposed to the increase of salaries as a general rule, it has occurred to me that the true interest of the state would be promoted by increasing the salaries of the district attorneys to a sum equal to those of the circuit judges, and by prohibiting them from practising *in their own circuits* in civil cases. In this way the state would procure the undivided attention of able lawyers, and thus have the best possible guarantee that her interest in court would not suffer. The present low salaries do not justify attorneys in abandoning the civil docket; and nothing is risked in asserting that no lawyer of respectable standing would be confined to the criminal docket for the salary of a district attorney. Economy and a faithful administration of the criminal laws equally demand this change. Our judicial system costs an annual sum little short of thirty thousand dollars over and above all the salaries in that department. Much of this large amount is paid for costs in cases where the state has failed in the prosecution, through some official neglect or incompetency, and where the guilty have in consequence gone unpunished. The foregoing recommendation, if carried out, it is hoped will correct this great and growing evil.

The success of the penitentiary for the last two years has not equalled the general expectation. In 1846, the balance sheet exhibited a loss of eight hundred and eighty-four dollars and fifty-three cents; and this year the gain is shown by the same exhibit to be eighty-five dollars and fifteen cents. In justice, it should be admitted that the losses have been greater than the reports indicate. By an investigation of the accounts for 1846, it will be seen that six thousand five hundred and seventy-three dollars and seventy-three cents was drawn from the treasury in that year; and this year, 1847, six thousand three hundred and thirty-nine dollars and forty-eight cents has been drawn for the use and support of the institution; and that the income is credited in 1846, by stock and tools on hand, nineteen thousand six hundred and fifty-nine dollars and seven cents, and in 1847, by twenty-six thousand six hundred and three dollars and sixty-three cents.

All this material is valuable, and it may be worth the estimated sums. The tools are subject to waste, however, from constant use, and other articles will depreciate in value from being kept on hand. Until converted into money, their precise value cannot be ascertained. A rigid investigation into all the affairs of the prison is due to its officers and to the public, and is earnestly recommended by me. The reports of the inspectors and other officers for the two last years, ending November 30th, 1847, are herewith transmitted, and will make you acquainted with the operations of the institution during that time. Your attention is especially directed to the report for 1847, and the recommendations therein contained: various difficulties have interposed to prevent a fair experiment in the business of manufacturing cotton and other goods, as was intended by a law of the last legislature. For full information in respect to the progress made in the business of manufacturing, respectful reference is made to the report for 1847. Hopes are confidently entertained that the experiment will in the end prove highly successful and satisfactory, and that the prison will thence cease to be a charge on the

treasury. It is worthy of remark, that the penitentiary mode of imprisonment, expensive as it has seemed to be, is cheaper than any other, and recommends itself as the best means of punishing malefactors by its efficacy and its humanity.

Benjamin G. Weir, Esq., resigned the superintendency of the prison in May last. The executive appointment was tendered to J. W. Wade, of Holmes county, who entered immediately on the duties of the office, and has continued to discharge them to my entire satisfaction.

Attention is respectfully called to the manner of keeping books in the auditor's office. The plan is radically defective. The business is rendered complicated and difficult to understand. Accounts are so intermingled that a proper investigation of them is almost impossible. Charges are made under general heads, as the legislative, executive, judicial, &c., and no individual accounts are kept. It is respectfully suggested that a *debit* and *credit* account should be opened with every individual who has moneyed transactions with the office, on one side of which he may have credit for what is due him, and be charged on the other with the amount paid him: thus exhibiting at a single view, the state and condition of each man's account. It would be well to open an account with each county in the state, crediting each with all that is received from it, and charging each with all that is paid to it or its citizens. Salaries of the state officers might be charged *pro rata* to the several counties according to their population; and those of district officers according to the number of days' service rendered to each. Such accounts would be easily kept, and would be useful as matters for future statistical reference.

The habit of paying members of the legislature, judges, and other officers, and indeed of paying almost the entire sum that goes out of the treasury, without any special appropriation, seems to me to conflict with the 7 Sec., 7 Art. of our state constitution. The language of the state and federal constitutions on this point is precisely the same, that "no money shall be drawn from the treasury, but in consequence of an appropriation made by law." Congress has deemed that specific appropriations were necessary to pay the stated salaries of the judges, cabinet officers, and foreign ministers: the salary of the President, and even their own per diem allowance. Not a dollar goes out of the national treasury without first passing the ordeal of a Congressional appropriation. It will be admitted that this construction of the constitution is the safe one; and as it will require but little trouble and no expense to conform to it strictly, it ought to be done. We should in future require estimates from the auditor's office for the annual expenditures of the state. Appropriations should be made for every dollar that is to be paid out, and the issues should be kept strictly within the appropriations. By this means, the people would at least see a point beyond which their annual payment could not be made to go.

The attention of the legislature is again called to the immediate and pressing necessity for a lunatic asylum in this state. It is a reproach to any Christian people, that lunatics and insane persons should go at large, unprotected by the care of their fellows, constantly exposed to danger themselves, and putting in imminent peril the lives and property

of others. An appropriation of three thousand dollars, if judiciously expended, would remedy this long-neglected and crying evil.

Our statute punishing retailers of spirituous and vinous liquors, is defective in this; that it imposes an indiscriminate penalty of thirty days' imprisonment and five hundred dollars fine in every case of conviction. There are degrees in the magnitude of this offence as in all other cases. The *quo animo* should be strictly regarded, and the man who, by accident rather than by design, infringes the law, should be punished in a less degree than one who flagrantly and perseveringly sets the law at defiance. The ends of justice will be subserved by leaving it discretionary with the court, before which a conviction is had, to punish offenders of this class, say from one day's imprisonment and twenty-five dollars fine to one month's imprisonment and five hundred dollars fine.

The law is defective on the subject of punishing burglary. No penalty is affixed by our statute to this offence when committed by a *slave*, and it is doubtful if punishment can be inflicted, or to what extent if at all. Manifestly it is an omission in the law, which should be supplied without delay.

Your attention is again called to the necessity of making some suitable provisions for protecting the public arms. Vast quantities of arms and accoutrements are annually lost and destroyed for the want of an armory, and some competent person to take charge of them. The loss, since our state existence, is little short of one hundred thousand dollars, and that sum is increasing annually by a sum larger than is required to keep the arms securely.

By reference to the report of the adjutant-general, herewith transmitted, it will be seen that the militia of the state is in a good state of organization.

Hon. Jesse Speight, senator in Congress from this state, died at his residence in Lowndes county, on the 1st day of May last, and, on the 10th day of August, Colonel Jefferson Davis received and accepted the executive appointment to fill *ad interim* the vacancy thus created. The duty of electing a successor devolves on the legislature.

In obedience to a legislative requirement, efforts have been made by me to collect the sum of six thousand one hundred and twenty-five dollars, expended by this state in 1836, in calling out volunteers in compliance with the requisition of Major-General E. P. Gaines, U. S. A. The accounting officers at Washington have declined paying the claim, and assign the want of lawful authority as the reason. An appeal has been directed to Congress, but thus far without success.

In conformity with the legislative direction, suit has been instituted on the bonds of the Newton and Lauderdale Turnpike Company—it is still pending in the Circuit Court of Clark county. One of the greatest obstacles in the way of a successful prosecution of the suit, is the loss of the original bonds, and the difficulty in procuring correct or authentic copies. By way of preventing similar difficulties in future, it should be made the duty of every officer, with whom official and other bonds are deposited, to *record* them in a well bound book to be kept for that purpose, and copies from this record should be received in evidence when the originals are lost.

A. Hutchinson, Esq., has bestowed great labor in the preparation of a compilation of our statutes. The work is highly approved by competent judges; and as the wants of the state imperiously demand such a book, it is respectfully recommended to your attention. The cost of the publication cannot be borne by the compiler on his sole responsibility, and, if on full examination, the book is found worthy of patronage, the legislature ought to afford such assistance as will insure its speedy production.

Howard and Hutchinson's Code is almost out of print. In the course of ten years many of the laws embodied in it have been modified, altered, or repealed. Some of the pamphlet laws will have very soon to be reprinted, as the originals are almost or quite exhausted. Hereafter a larger number should be published, unless the legislature should think proper to order a compilation of all the statutes. Many reasons might be assigned why a compilation is preferable to any other mode of supplying the laws, but most of them will be so apparent to members of the legislature as to render the mention of them unnecessary. In fixing the number of copies of any law, ordered to be published, proper allowance should be made hereafter for the increasing population of the state, and the consequent increase in the number of the officers, as well as for the more important fact that many of the books and pamphlets that are scattered over the state, in the hands of several thousand persons, are lost or destroyed by neglect, or worn out by constant use. When other officers are elected, they must therefore be without the laws, unless the state can furnish them.

Our Law and Chancery Reports number sixteen volumes. The decisions have been digested by W. C. Smedes, Esq., one of the present reporters to the Supreme Court, in a volume of about four hundred pages. In view of the difficulty of ascertaining and understanding the decisions of our courts by officers, who are not lawyers, the utility of such a book is manifest. It gives the decisions under proper heads, in such manner as to place the adjudications on all the various points in an accessible and convenient form before the reader; this work is well spoken of by the judges of the High Court of Errors and Appeals in a letter herewith transmitted, and is by me recommended to the favorable consideration of the legislature.

The public buildings at Jackson have been greatly neglected for some years. Necessary repairs have not been made for want of means. The utmost that could be done with the limited amount at my disposal, has been to prevent absolute waste. There should be an annual appropriation placed at the disposal of the governor to keep the buildings in repair.

The United States has purchased a lot of ground in the village of Biloxi, with the view to the erection of a light-house thereon, in pursuance of an appropriation by Congress for that purpose. A letter from James E. Saunders, collector of the port of Mobile, is herewith transmitted, asking the passage of an act ceding jurisdiction to the United States over said lot. Your early attention is invited to the subject.

The amendment proposed by the last legislature to our state constitution, in regard to banks, was voted on at the November election, 1847. The whole number of votes cast for members of the legislature was little

short of fifty thousand, of which only eighteen thousand five hundred voted for the proposed amendment, as shown by the returns made to the secretary of state. If these returns are taken as conclusive, the amendment has not carried, and cannot, therefore, be inserted in the constitution. But it is understood that many thousand votes were polled of which no return has been made. Such culpable neglect or official malversation should be rightly investigated, and suitable steps taken to prevent its recurrence. A proper inquiry may lead to the evidence that the amendment has passed.

The report of Edward Pickett, M. D., vaccine agent for the state, is herewith transmitted, and will bring you acquainted with the manner in which he has discharged his duties, and the extent to which the agency has been made useful.

Resolutions, official letters, and other documents, embracing a great variety of subjects, are herewith transmitted, to which your attention is respectfully invited.

The President of the United States has made three several requisitions on the state for volunteers to assist in prosecuting the war with Mexico. The two first for a regiment of infantry or riflemen each, and the last for a battalion of riflemen. The first and second calls were responded to as promptly as the most ardent patriotism could have desired, but a combination of circumstances produced some delay in organizing the battalion. It has been despatched, however, to the seat of war, and is now on the way to Mexico.

The first regiment volunteered for twelve months, and having served out the time, was returned to the United States and discharged. It was the good fortune of this regiment to have participated in two of the most brilliant engagements of the war; its gallant bearing needs no eulogium from me. The storming of Monterey and the field of Buena Vista, will tell how faithfully the first Mississippi rifles did their duty. The regiment numbered nearly one thousand when they entered the service—only three hundred and fifty-eight returned at the end of twelve months.

The second regiment is with the army under General Taylor, and supplies the place of the first. The battalion has been ordered to join the column under General Scott. Both these volunteered during the war. The battalion has but just entered the service; the regiment has served about twelve months; when last heard from they were in fine spirits, and ready to render an account of themselves whenever called upon. They have been kept in camp, and have suffered greatly from disease, but are now in good health; and should the war be unfortunately protracted, their ardent desire for active service will most likely be realized.

The representatives of the people will doubtless express to the volunteers the deep sense of gratitude with which their admiring countrymen have received intelligence of their toils, their sufferings, and their triumphs.

The accompanying correspondence will inform you, that, at my solicitation, the arms and accoutrements borne by the first regiment in Mexico were issued to this state as a part of her quota, and by an executive order were allowed to remain in the hands of those who had so

worthily used them in battle. The legislature may perform an acceptable service, by presenting to each discharged soldier of the first regiment his rifle and its accoutrements. It affords me great pleasure to make that recommendation.

Some embarrassment has been experienced in providing the necessary supplies for the volunteers. The government agents are not always at hand, and when present do not furnish all that is required. Considerable sums have been expended from time to time, and the accounts have been promptly settled at Washington when sent on. United States officers, acting in a subordinate capacity, would not settle demands, unless contracted within the clearly-defined limits of their legal authority. Hence, the state executive had first to pay them, and then look to the Secretary of War, who acts with a more comprehensive discretion, for repayment. Ten thousand dollars should be placed at the disposal of the governor to meet these demands in future.

It is foreign to the purposes of this communication, to consider the cause which produced the war, or the ends to be accomplished by it; but it has given momentum and present consequence to another question, in which our state has a very direct, local, and individual interest. In view of the possible acquisition of territory, by way of indemnity, the House of Representatives of the United States declared, by a large vote, that "neither slavery nor involuntary servitude shall exist in any territory hereafter to be acquired by, or annexed to, the United States, except for crimes whereof the party shall have been first duly convicted." The sentiment has been taken up by many of the non-slaveholding states, and by distinguished men of both the great political parties. Virginia, in a series of resolutions, indited with perspicuity and the calmness of conscious rectitude, has assumed the *true national* position on this question. These resolutions, together with a copy of my reply thereto, made in the absence of the legislature, and addressed to the Governor of Virginia, are herewith transmitted.

Territory acquired by the joint effort of the states, must be the property of all the states, and any attempt by the free states to exclude the slaveholding states from a full participation in the ownership and occupancy of it, would be as preposterous as if the latter were to assume, through the agency of Congress, to establish the institution of slavery throughout such acquired territory. The might of the free states does not carry with it the right to legislate against the slave states. Ours is not a consolidated government, ruled by the power of majorities not strictly controlled by the federal constitution, but it is a confederation of states, in which the rights of each state are reserved to itself, except in so far as for the general good, they have been delegated to the confederation. The power to legislate in regard to slavery has not been delegated, and therefore does not belong to the federal government, but remains with the states respectively. The question in the territories, it seems to me, must be left, as in the states, to be settled by the people who inhabit them. A state, by its municipal regulations, may exclude slavery, but it is not pretended that Congress can do so. Where does the federal power derive its authority to exclude it from the territory? A man's slave is his property, so recognised by the Constitution, and so declared by the highest courts of the country; and a citizen of Missis-



issippi may settle with his slave property in the territory of the United States, with as little constitutional hindrance as a citizen from any other state may settle with any other species of property. The same power that could exclude a Mississippian with his slaves could exclude a New Yorker with his merchandise.

New states, asking admission into the Union, are to be introduced upon terms of equality with the original states. Congress must take care that they have a republican form of government, and that their constitutions do not conflict with that of the United States; and here the power to direct and control them ceases. No other and extraordinary conditions are to be imposed upon them. Each state, for herself, as she enters the Union, must decide whether she will take her position with the free or slave states of the Union. If an anti-slavery majority in Congress may, by the mere force of that majority, exclude slavery from a territory, and thus prepare the way for making her, in the end, a free state, why may not a pro-slavery majority force slaves upon the territory, and thus make it a slave state? And if the opponents of slavery may deny to a new state admission into the Union, until she excludes slavery from her limits, why may not the friends of slavery exclude such applicant until she admit and establish the institution of slavery? The southern slaveholder has never undertaken to exclude the northern anti-slavery man from a full share in the ownership and enjoyment of all the territory in the United States. He has never undertaken to control the settlement of such territory, always admitting the right of each new state to regulate her own domestic institutions; he has never sought to exclude such state because she prohibited slavery—yet, we are met with unceasing efforts to exclude slavery from the territories; to deny the slave owner the right to go with his property into such territory, and to close the doors of the Union against the admission of slave states. Need it be asserted that such attempts are violative of the Constitution, and in derogation of the rights of the states, and of the people? It is no reply to say, that the free states are the strong party, and that a majority must rule. The voice of a majority, unsustained by the Constitution, is utterly powerless. Majorities may pass enactments in violation of the Constitution, but they can impose no corresponding obligations on the minority to obey them. They may attempt to exact obedience by force—the attempt, so far as it succeeds, will be tyranny and oppression, and, if persisted in, will result in revolution. For, whenever the will of a majority supersedes the restrictions of the Constitution, and the rights of the states and individuals possess no other guarantee than such as are yielded to them by the strong party, our federal government will have ceased to be one of confederated states, and each member must assume its original, sovereign, and independent position. Whether we shall be forced to this extremity, depends upon the councils which shall govern at Washington. It becomes our state, menaced as she is with a serious and unauthorized restriction of her present rights, and an ultimate overthrow of her domestic institutions, to assume her position, and publicly to declare and make known the course she will feel constrained to pursue, sooner than submit to such tyranny and oppression. She should take her position with the calm dignity of determined resistance, and maintain it with all the pertinacity

of one who knows her rights, and knowing dares defend them. The hope is, therefore, earnestly expressed, that the legislature will take our position into serious consideration, and, after mature reflection, place the state in such attitude before the Union and the world on this subject, as that her conduct, whatever it may be, shall have the unqualified approval of every man, at home and abroad, who loves the country and reveres the Constitution.

No other subject of general interest presents itself to my mind as worthy of special notice.

In transmitting to the two Houses of the legislature this my last general communication, and being about to close an official connection with the state which has existed for four years, the occasion is embraced to tender my grateful thanks to the people and their representatives for the generous manner in which they have treated the errors of my administration. If the condition of the state has been improved, and the general welfare promoted, the credit is due to the people and their officers, who have acted together for this desirable end. Guided by the wisdom which is from on high, all interests have harmonized in bringing about an improved state of our public affairs; and it is gratifying to know that the same course hereafter, under the guidance of Divine Providence, will lead us to that high destiny which awaits our state in the no distant future.

We should never cease to remember the dependence we owe to our Father which is in Heaven, and our prayers should continually ascend, that He may vouchsafe to us wisdom in our deliberations, and a pure patriotism in the performance of every act involving the welfare of our beloved country.

A. G. BROWN.

EXECUTIVE CHAMBER, January 3d, 1848.

## THE WAR WITH MEXICO.

In the House of Representatives, February 10, 1848, in Committee of the Whole on the state of the Union, on the bill to authorize a loan not exceeding eighteen million five hundred thousand dollars—Mr. BROWN, of Mississippi, said :—

I AM aware, Mr. Chairman, that I am to speak under many disadvantages. The committee have manifestly grown weary of this discussion; and nothing less than such a speech as, that with which we have been entertained by the gentleman from Vermont [Mr. Marsh] will now interest them. The speech was beautiful in its conception, and chaste in its delivery; and though, to my mind, illogical in its deductions, and erroneous in its conclusions, it arrested the profound attention of the committee. If I had selected my own position, I should not have chosen to follow such a speech, it not being my purpose to reply to it. The difficulty in obtaining the floor has imposed on me the necessity of speaking when I am permitted, and not when I desired to do so.

The opinions of my constituents constitute a part of the grand aggregate of public sentiment in regard to the Mexican war; and both they and their representative have a reasonable anxiety that these opinions may be included when the general account current with public opinion comes to be made up on this subject.

We believe the war to have been just and constitutional in its commencement; that it has been vigorously prosecuted thus far, for wise and proper ends; and that it should be so prosecuted, until we have the amplest reparation for past wrongs, and the fullest security that our rights as a nation are to be respected in future. To this end, we are prepared to vote such number of troops, and such additional sums of money as, in the judgment of the commander-in-chief, may be necessary to attain these objects.

The gentleman from Vermont [Mr. Marsh] has said that the annexation of Texas was the cause of the war, and I agree with him. War, he says, was not the *necessary* result of annexation, and again I agree with him. It was no *just* cause of complaint with Mexico, that we annexed Texas to the United States. This, to my mind, is clear; and yet, if we had not had annexation, we should have had no war. Mexico may have destroyed our property, murdered our people, insulted our flag, and violated her treaty stipulations, as she had done for many long years, and such is our love of peace, that we would have borne it all with patience, and waited for reparation on the tedious process of negotiation with a nation proverbial for being slow in making treaties, and swift to violate them after they are made. But when Mexico came upon our soil, in all the panoply of war, burning our houses, plundering and murdering our people before our face, threatening desolation to the country, and menacing our little army with a total overthrow, we began at last to *think* of war. The old leaven of 1776 began to work—the spirit of 1812, which had been dormant for more than thirty years, awoke from its slumbers; still we only thought of war. Mexico threatened, but we looked for peace. Point Isabel had been set on fire, Cross was murdered, Thornton and his command were captured and borne off in triumph, and yet we had no war. A Mexican army threatened to attack General Taylor in his camp, and yet war lingered in the lap of peace. At length, a Mexican general, at the head of a Mexican army, boldly threw himself across the path of our forces, and hurling defiance in their teeth, disputed their march at the mouth of the cannon. Two bloody conflicts (in both of which, Mexico, true to her national instincts, fired the first gun, and made the first retreat) were the consequences. And after all this, we are told that *we* commenced the war.

The President, it is said, commenced the war by ordering the army into Mexico, and by his subsequent “unnecessary and unconstitutional” orders to General Taylor to advance and take a position on the Rio Grande. Let us examine these orders, their dates, their contents, and the circumstances under which they were issued—not as partisans, intent on gaining advantage for the one or the other party, but as patriots, as the representatives of a free people, who love justice as much as they love their country. But before we do this, let us examine into the history of that Texas, the annexation of which produced the war, to the end that we may fully appreciate the justice of the complaint urged with

so much vehemence and ill blood by Mexico against it. Having admitted that the annexation (however unjustly made so) was the cause of the war, I should fail in doing justice to the President, improperly charged as he is, by a vote of this House, with bringing the country into a state of war "unnecessarily and unconstitutionally," if I did not note the precise agency which he had in the transaction. As a private citizen he gave his opinion in favor of it, as did hundreds of thousands all over the Union. I shall not pause to inquire how far his views may have influenced his countrymen, or to what extent an expression of them influenced his fellow-citizens, in calling him from private life to preside over the destinies of this great nation. The conviction has taken deep root in the public mind, that the expression of opinions adverse to those of Mr. Polk defeated the nomination to the presidency of one distinguished man before a convention of his party, and the election of another by the people. From all of which, I have concluded that Mr. Polk did not lead, but followed public sentiment on this subject. The sin of the President is not (if I am right in this) that he led, but that he followed, his countrymen into a false position, if false it was. The responsibility rests, therefore, where I hope responsibility in this country may always rest on all questions of vital interest, with the people—the people who demanded annexation—the people who never did and never will shirk the responsibility of their own act—the people who will, if *permitted*, fight out this war to a speedy and honorable issue—the people who will supply all the means, both in men and money, and in the end, in defiance of opposition here or elsewhere, demand and obtain just and honorable terms of Mexico. They will settle their accounts in their own way, not only with Mexico, but with their representatives here, meting out justice to whom it is due.

Annexation, I have said, was no just cause of war. In this I but concur in opinion with the eloquent gentleman who preceded me. I am glad, too, to find myself sustained in this by another of New England's sons—a man to whom I know many thousands of his countrymen look for counsel, and on whose accents they hang as upon the words of inspiration—a man who not only speaks but thinks for a large number of people, who do their thinking, as princes sometimes do their wooing, by proxy. Mr. Webster is reported to have said, in a late speech on this subject: "And I go further; I say that, in my judgment, after the events of 1836 and the battle of San Jacinto, Mexico had no reason to regard Texas as one of her provinces. She had no power in Texas; but it was entirely at the disposition of those who lived in it. They made a government for themselves. This country acknowledged that government, foreign states acknowledged that government; and I think, in fairness and honesty, we must admit, that in 1840, '41, '42, and '43, Texas was an independent state among the states of the earth. I do not admit, therefore, that it was any just ground of complaint on the part of Mexico that the United States annexed Texas to themselves."

Let us now, Mr. Chairman, look to the record, and see how far it justifies these conclusions. What was Texas at the period of annexation? A sovereign and independent republic. History so records her. The nations of the earth had so acknowledged her. She won her independence, as we won ours; on the battle-field. She maintained it, as we

maintained ours, by the energy, the valor, the indomitable courage of her people. We acknowledged her independence, as other nations had acknowledged ours—as we and others had acknowledged the independence of Mexico herself. We did not consult Spain when we acknowledged the independence of Mexico; nor did we think it necessary to consult Mexico when Texas asked to be recognised as independent of her lawless tyranny.

Texas, thus independent, asked admission into our Union. She presented the sublime spectacle of an independent republic, asking to blot out her separate nationality, and to merge her political existence into that of a sister republic; that the flag of this Union, with the addition of another star, might be permitted to float over the people and the territory of two nations united into one. The politicians raised their voices against it, but the *people* said it should be done, and it was done—*Vox populi*.

What Texas was it that was thus annexed to the United States? It was that country which we had acquired from France in 1803—which we ceded to Spain in 1819—which never did belong of right to Mexico—which Houston and his brave compatriots wrested from tyranny and misrule on the plains of San Jacinto, and over which they extended, and continued for eight years to maintain, both civil and military jurisdiction. It was the country lying between the Sabine and the Rio Grande; and we have the concurrent testimony of living witnesses, who have come down to us from another generation, that history is right. Mr. Clay and John Quincy Adams are these witnesses.

It is now said, that Mexico, in fixing the boundary between the departments of Texas and Tamaulipas blotted out the old landmarks as recognised in the treaties of 1803 and 1819, and appointed the Nueces as the dividing line. This may be so, or it may not. I have tolerable evidence that it is not. I neither admit nor deny the truth of the assertion; therefore content myself with saying, that without stronger evidence than I have yet seen, I must adhere to a conviction long entertained, that the Nueces never was the boundary between Texas and Tamaulipas by any *law* of Mexico, *properly so considered*. But this is wholly immaterial. The gentleman from Georgia [Mr. Stephens] took the correct view of this subject, and I am happy to have his concurrence on one point, and to commend his views to his party. Texas, says the gentleman, extended as far west as the people of that country established and maintained their authority, and this I shall demonstrate was to the Rio Grande. The first Texan Congress that assembled after the battle of San Jacinto defined the western boundary by the Rio Grande. When we and other nations acknowledged her independence, this was her boundary, as defined by herself; we acknowledged her jurisdiction over the whole country without restriction or limitation. Texas laid off counties in the country between the Nueces and the Rio Grande, and these counties were represented when, as a state, she asked admission into the Union. She declares all her laws, not inconsistent with the annexation resolutions nor with the Constitution of the United States, to be still in force. Now, was there anything either in our Constitution or in the resolutions of annexation not perfectly consistent with this law defining the western boundary of Texas by the Rio Grande? Nothing,

air. The question of boundary, by the resolutions, was to be finally settled, so far as the United States and Mexico were concerned, by negotiation; and until our government, by virtue of the power thus reserved over the question, concluded this negotiation, the laws of Texas, by the terms of the compact, remained in force. But further than this, Texas, by her constitution as a state of this Union, defines the counties of Bexar and San Patricio, as in senatorial districts. These counties lie, in whole or in part, between the Rio Grande and the Nueces. The United States admitted her as a member of the confederacy, knowing that she had fixed her western boundary at the Rio Grande, and approved her constitution defining the senatorial districts I have just mentioned. Not a court for the transaction of business was held in that country, save under Texan laws. Texas, then, established and maintained her civil jurisdiction over the country. In a military point of view, how did she stand? Whenever Mexico, by her predatory invaders, crossed the Rio Grande, she commenced killing and destroying, showing that she was among enemies. Surely she would not thus prey upon her own people; and Texas, when she drove out the invaders, always pursued them to the Rio Grande; and she drove them out as often as they came in. Thus, I think, her military authority over the country is made complete.

When the United States admitted Texas into the Union, it was with a full knowledge that she had defined her western boundary by the Rio Grande; that she had maintained that boundary by her civil and military authority. We accepted her constitution, establishing, as it did, a senatorial district west of the Nueces, and extending to the Rio Grande. We did more than this, in declaring Corpus Christi a port for the collection of duties. We established a post-office there, and another at Point Isabel; we established post routes in the country. Thus, in every form in which the question may be viewed, whether in regard to the legislation of Texas, or of our own Congress, the country between the Nueces and the Rio Grande has been recognised as within the limits of Texas. Congress, in times of peace, has never assumed the right to collect duties, and to establish post-offices and post-roads in Mexico; and by this very act of legislation, we have proclaimed to the President and to the world, that the jurisdiction of the United States has been extended to all the country between these two rivers. Under these circumstances, what was the President's manifest duty? To abandon a country, thus recognised as within the rightful limits of a member of the Union, and therefore under the ægis of national protection?—to give it up to Mexican rapacity, suffer our custom-house to be burnt, our post-offices destroyed, our mail-carriers killed or taken prisoners?—the houses of our citizens destroyed, and themselves and families butchered or driven from the country? Had he done this, his present revilers would, with justice, have heaped mountains of abuse on him. The whole country would have risen up against him, and he would indeed have been buried so deep beneath the curses of his countrymen, "that the arm of resurrection never would have reached him!"

What, again let me ask, was the President's manifest duty? To settle the question of boundary by negotiation, as the annexation resolutions had provided; and, until this was done, to hold peaceable possession of

all the territory within the rightful limits of Texas, and, if needs be, to *repel any hostile invasion of it* from Mexico or elsewhere.

For a more perfect understanding of the President's course, let us consider the temper in which Mexico received an intimation that Texas was about to be annexed. As early as 1843 (when Mr. Webster thinks Mexico had no just claim on Texas), her Minister of Foreign Affairs thus writes to Mr. Thompson, our minister resident in Mexico:—

"The Mexican government will consider equivalent to a declaration of war against the Mexican republic the passage of an act for the incorporation of Texas with the United States; the certainty of the fact being sufficient for the proclamation of war, leaving it to the civilized world to determine with regard to the justice of the cause of the Mexican nation in a struggle which it has been so far from provoking."

Mexico continued to threaten, and our people became more resolute on the question of annexation—very properly determining to do what they had a right to do in defiance of Mexican threats or Mexican arms. When the voice of the people had triumphed over the voice of the politicians, and when, in obedience to the popular mandate, the annexation resolutions passed both Houses of Congress, what course did Mexico pursue? Her minister resident here, addressed to Mr. Calhoun, then Secretary of State of the United States, a formal protest against this consummation of the will of our people. From this protest I submit an extract. After assigning what he is pleased to term reasons against the annexation, General Almonté proceeds:—

"For these reasons, the undersigned, in compliance with his instructions, finds himself required to protest—as he does in fact protest—in the most solemn manner, in the name of his government, against the law passed on the 28th of the last month by the general Congress of the United States, and approved on the first of the present month by the President of these states, whereby the province of Texas, an integral portion of the Mexican territory, is agreed and admitted [*se consiente y admite*] into the American Union. The undersigned, moreover, protests, in the name of his government, that the said law can in nowise invalidate the rights on which Mexico relies to recover the above-mentioned province of Texas, of which she now sees herself unjustly despoiled; and that she will maintain and uphold those rights at all times, by every means which may be in her power."

Now, sir, what have we here? The Mexican protest against the annexation of Texas—"The province of Texas, an integral portion of the Mexican territory." The bold Mexican scorns to speak of a divided province or territories in dispute. He had heard of the "fifty-four-forties," and he became in spirit one of them. He went for the whole or none. And what was the threat distinctly put forth in the minister's protest? That Mexico will uphold her right to Texas at all times, and *by every means which may be in her power*. What means are here alluded to? She had threatened war if Texas was annexed. The people of the United States spurned the threat; and after the annexation is consummated, Mexico says she will use *all the means in her power* "to recover the province of which she sees herself unjustly despoiled." These means were armies, equipped for action—they could be nothing else. After this petulant exhibition of the Mexican minister, he received his passports at his own request, and left the country; and what followed? Every gale that swept from the south bore upon its wings some note of preparation in Mexico to invade Texas. Her embattled hosts were con-

gregating from her hills and her valleys. At every step she uttered war, and not a breath escaped her that did not carry with it the taint of her deep and damning hate of our country and our laws. Look at all this, and answer me, if the President would not have been grossly derelict in his duty if he had not been warned? Would he not have betrayed the confidence of a generous people if he had not prepared to meet this approaching crisis? Nor was the President left to his own conjectures and the warnings which Mexico had given from time to time of her hostile intentions. The Texan Secretary of State appealed to the United States, through her minister (Mr. Donelson), for protection to his country against Mexican vengeance,—a modest appeal, sent up by a young sister not yet in the full bloom of womanhood, to be protected against the infernal lusts of an infuriated monster. How should such an appeal have been answered? How was it answered? By sending our eagles to hover around and protect the young state. And who shall say it was wrong? Where are the men that dare stand up before the American people, and tell them, that after Texas was annexed by their order, the President ought to have given her over to the merciless spoliation of Mexico? There they sit, sir, on the opposite side of this hall; the men who, in full view of all the facts, have soiled the journals of this House with a charge that the President involved us in an “unnecessary and unconstitutional war”—a war commenced, as Mexico herself declared, “to recover the province of Texas, of which she saw herself unjustly despoiled.”

Gentlemen, when closely pressed, admit that the army might rightfully have been sent to *Corpus Christi*. How dare they deny it? Congress had declared it an American port for the collection of duties, and had otherwise legislated in regard to it. And where, sir, is *Corpus Christi*? West of the Nueces, by a parallel line, several miles, and in that very territory which gentlemen now claim as disputed territory. American senators and representatives have set up for Mexico a boundary which she never did, until prompted to it by them, set up for herself. They claim the Nueces as her boundary, and we for our own country claim the Rio Grande. Now, you admit that our armies might rightfully cross the boundary claimed by you for Mexico, and yet you say that they could not, “lawfully and constitutionally,” penetrate as far west as our boundary. Will some gentleman oblige me by pointing out an intermediate stopping point—some place at which our army might halt without a violation of the rights of Mexico or our own “Constitution.” Until this is done, I must indulge the opinion, that by the same right that they crossed the line claimed for Mexico, they could advance to the boundary claimed for the United States. There was no intermediate stopping point.

Gentlemen claim that the territory between the Nueces and the Rio Grande was neutral territory. How came it to be so? You tell me it was territory in dispute. Who made it so? Mexico certainly never did. She claimed, I repeat, all of Texas, and scorned to speak of anything short of a recovery of the whole province. But admitting (which can only be done for the sake of argument) that the territory was in dispute—had we not as much right to be on it as Mexico? And if we went there and occupied it first, might Mexico come with force of arms and drive



us away? Does not common sense revolt at the idea, of the right of one party to drive another by force, from the occupancy of an estate to which each have an equal claim?

But gentlemen tell us the question of boundary ought to have been settled by negotiation; and I agree with them perfectly. It ought to have been so adjusted. The gentleman from Vermont [Mr. Marsh] says the President never intended or desired to settle the dispute without a war. He longed for a little more patronage, a few more offices, with which to sate the cormorant appetites of his hungry expectants. A most unworthy charge, as ridiculous in its conception as it is untrue in fact. That the President did desire to settle this and all other matters of difference with Mexico, "let facts be submitted to a candid world." After all the demonstrations which Mexico had made from time to time, the President contented himself with sending a small army to the frontiers of Texas, and took the earliest opportunity of assuring Mexico that the army was sent with no hostile intentions; and these assurances were from time to time repeated in the most positive and emphatic form. When sufficient time had elapsed for passion to subside and reason to resume her dominion in Mexico, the President, advancing with the most cautious steps, directed a communication to be written to our consul in Mexico (the minister having been sent home), instructing him to ascertain if Mexico would receive "an envoy intrusted with full powers to adjust ALL QUESTIONS in dispute between the two countries." This despatch of Mr. Buchanan bears date September 17th, 1845; and on the 17th of October following (only one month), Mr. Consul Black encloses the answer of Mr. Peña y Peña, Mexican Minister of Foreign Affairs, stating that Mexico would receive "*the* commissioner who may come with full power to settle the matter in dispute," &c. Now gentlemen rise in their places and tell us that the President intentionally picked a quarrel with Mexico; that Mexico agreed to receive a commissioner, and the President sent them an envoy. For once, I give them the credit of *following* the enemies of their country. Mexico herself *first* made this point. The published documents (Doc. 196, H. R., 29th Cong. 1st sess., Executive) show that the United States offered to send "an envoy," and Mexico agreed to receive "~~THE~~ commissioner;" not *a* commissioner, but *the* commissioner; meaning evidently to imply, that *the* envoy, *the* minister, *the* commissioner, the diplomatic agent of the United States, "charged with a settlement of all questions in dispute between the two countries," would be received in whatever name or style he presented his credentials. And so Mr. Buchanan understood it; so the President understood it; so Mr. Consul Black understood it; for, on the 28th of October, we find him writing to the Secretary of State that "the Mexican government is very anxious to know when they may expect ~~THE~~ ENVOY." What plausible pretext is there that Mexico expected a commissioner? She expected and had agreed to receive the diplomatic agent which our government had proposed to send. This is manifest from the whole correspondence. Paredes threatened to overthrow the weak or treacherous government of Herrera; and, by way of sustaining his tottering fortunes, his secretary was doubtless directed to make the best possible showing against the reception of Mr. Slidell, who, it is known, had proceeded to Mexico with extraordinary despatch,

and presented his credentials as Envoy Extraordinary and Minister Plenipotentiary, on the 8th day of December; and on the 17th of the same month, he reports his rejection to the state department at home. I need not recapitulate the reasons assigned for this extraordinary conduct on the part of Mexico: they were as puerile as they were absurd and contradictory. It was here stated, for the first time, that Mexico had agreed to receive a *commissioner*, and that the appointment of an envoy was not in accordance with the agreement; that Mexico only contemplated negotiations on the subject of Texas, and that the powers of Mr. Slidell, as Envoy Extraordinary and Minister Plenipotentiary, were not sufficient. Did stupidity ever sink to lower depths, or barefaced impudence assume a bolder front? A commissioner is desired, to treat on a single subject, and an envoy extraordinary, "with power to treat on all questions," rejected because his powers are not sufficient! This is the manner in which the President's sincere overtures were treated—the credentials of his envoy, addressed to his "*great and good friend*," and conveying marked assurances of his "desire to restore, cultivate, and strengthen friendship and good correspondence," scornfully thrust aside, and the envoy rejected. Mr. Slidell remained in the country, still seeking that "friendship and good correspondence" which was the object of his mission, until the revolution in favor of Paredes was complete; and on the 1st of March, 1846, he presented his credentials to the revolutionary president of revolutionary Mexico; and on the 12th of the same month, our minister was again rejected by Paredes' government, and he informed that Mexico had from the first regarded annexation as a cause of war (*casus belli*). Thus fruitlessly terminated this sincere attempt at negotiations—sincere on our part, as every circumstance attests; hypocritical on the part of Mexico, as her official despatches fully prove. I beg to remark again, that up to this date (January 12th, 1846), Mexico regarded *annexation as a cause of war*. We hear nothing from her about the neutral territory, or the disputed territory between the Nueces and the Rio Grande.

Now, Mr. Chairman, let us return, and examine events as they transpired nearer home. On the 28th of May, 1845, General Taylor was ordered with his forces to "a position where they could promptly and efficiently act in defence of Texas." On the 15th June, Mr. Bancroft, Secretary of War *ad interim*, ordered him to a position on or near the *Rio Grande*. This order was modified in several successive orders from Secretary Marcy. And on the 15th of August, 1845, the general dates his official despatch, Corpus Christi, TEXAS. Here he remained until the 11th of March, 1846. Much stress has been laid on Mr. Bancroft's order of the 25th May, 1845. Now, I have simply to ask, if that order had not been recalled, how did it happen that General Taylor did not "take up a position on the Rio Grande?" Why do we find him at Corpus Christi from August 15th, 1845, to March 12th, 1846? There can be but one answer: The order to advance had been revoked. It was done on the 30th of June, one month and two days after it was issued, and before General Taylor had yet reached Texas. On the 4th of October, 1845, the general writes to the War Office from Corpus Christi, TEXAS; and from this important despatch I read—

"It is with great deference that I make any suggestions on subjects which may become matters of delicate negotiation; but if our government, in settling the question of boundary, makes the line of the *Rio Grande* an ultimatum, I cannot doubt that the settlement will be greatly FACILITATED and HASTENED by our taking possession at ONCE of one or two suitable points on or quite near that river. Our *strength and state of preparation should be displayed in a manner not to be mistaken.* However salutary may be the effect produced on the border people by our presence here, we are TOO FAR FROM THE FRONTIER to impress the government of Mexico with our readiness to vindicate, *by force of arms*, if necessary, our title to the country as far as the *Rio Grande*."

I have introduced this extract for more purposes than one. The first of these is, to show that General Taylor knew that Mr. Bancroft's order to march to the Rio Grande had been revoked; for he here suggests that he be allowed to take one or two positions on the Rio Grande. Then I wish to exhibit the cogent reasoning in favor of such a position. First, that it would "facilitate and hasten a settlement of the boundary;" then it would "display, in an imposing manner, our strength and state of preparation to the enemy." And, lastly, that it would "impress the Mexican government with a due sense of our readiness to vindicate, by force of arms, if necessary, our title to the country to the Rio Grande." These were the cogent, and, to my mind, conclusive reasons of the honest-hearted, patriotic, and brave old general for advising his Government to allow him "to take one or two positions, at once, on or near the Rio Grande." His position at Corpus Christi was, he said, "*too far from the frontier.*" The gentlemen in the opposition now pretend that Corpus Christi is beyond the Texas line; but the general thought it was *too far from the frontier*, and asked permission to make a *display of his strength and state of preparation* on or near the Rio Grande. With what justice do gentlemen pretend that General Taylor was weak and without arms, unprepared for battle, when he declares his wish to exhibit, "in a manner not to be mistaken, his strength and state of preparation?"—with what propriety charge that the order to march to the Rio Grande precipitated us into an "unnecessary and unconstitutional war," when the general in command advised it as a means of "greatly facilitating and hastening a settlement of the controversy?" But, say gentlemen, the opinions of General Taylor were hypothetical. "If our Government intend to make the Rio Grande an ultimatum in settling the boundary" then he gave his opinions. And even these hypothetical opinions were subsequently modified, we are told. I grant the opinions were based on the hypothesis that we intended to insist on the Rio Grande; and, I ask, if there is a single member of this House who ever dreamed that our Government would insist on less than the Rio Grande? I venture to say there is not one. The hypothesis, then, amounts to nothing. How far was this discreet, sensible, and patriotic advice of the old chief subsequently modified? No injustice shall be done to General Taylor with my consent, for mere party purposes. He uses his pen as he does his sword, for his country, and not for a party. Under date November 7th, 1845, Corpus Christi, TEXAS, he writes to the War Department:—

"The position now occupied by the troops may perhaps be the best while NEGOTIATIONS ARE PENDING, or at any rate, until a disposition shall be manifested by Mexico to protract them unreasonably."

Here again he imparts sound and sensible advice to his country; and the Administration, with that deference to the superior military judgment of the general, which it has always exhibited, acted on this advice. For we see that, advised as he was by General Taylor on the 4th of October, AT ONCE to take one or two positions on or near the Rio Grande, the order to advance was not issued by the President until the 13th of January, 1846; and why? Because *negotiations were pending*; and the President thought, with General Taylor, that the position of the army at Corpus Christi was the best that could be occupied "*pending negotiations*." What had happened on the 18th of January? Mr. Slidell was not on that day wending his way (as a great man has erroneously stated) to Mexico with his diplomatic credentials in his pocket. He had reached Mexico (I speak from the record), presented his credentials on the 8th of December, 1845, and on the 17th of the same month reported his *rejection* to his Government. This despatch was received at the state department on the 12th of January; diplomacy had failed, negotiations were no longer pending, and General Taylor's advice given on the 4th of October, and modified on the 7th of November, 1845, was now in all its bearings fully carried out. The order to advance, and "at ONCE take one or two positions on or near the Rio Grande," was issued on the 13th of January, 1846. If any are disposed to censure the President for permitting the important despatch of October 4th to remain unanswered until the 13th of January, let them bear in mind that negotiations were pending, and that the character of this Government's response, must of necessity have depended on the result of these negotiations.

Now, let us follow General Taylor in his march. He is approaching the *frontiers of Texas*. He moved the last column of his army from Corpus Christi on the 11th of March, and on the 12th, Mr. Slidell was, a last time, rejected by the Paredes government in Mexico. On the 4th of February, the general writes to his government, that "our advance to the Rio Grande will have a powerful effect." His march was unmoled until he reached the Arroyo Colorada. Here the "irregular Mexican cavalry," (rancheros), or, in plain English, mountain robbers, opposed his crossing the river. The old general announced his determination to advance, and pointed significantly at his big guns; whereupon the "irregular Mexican cavalry" retired. The next we hear of him he is at Point Isabel, and here waited on by a Mexican deputation, sent by the *prefect* of Matamoros, on a *mission of peace*; and during the interview, Point Isabel was set on fire. This, says General Taylor, "I considered a decided evidence of hostility, and was not willing to be trifled with any longer." Our army advanced to a point opposite Matamoros, from which General Taylor wrote, on the 29th of March, that the Mexicans were decidedly hostile; and urged, for the first time, a reinforcement of his command. I beg to remark on this despatch, that it was addressed to the Adjutant General at Washington, and called on him for recruits, when the official documents show that the general had authority, from the 23d of August, 1845, to make requisitions on the governors of Texas, Louisiana, Alabama, Mississippi, Tennessee, and Kentucky, "for such number and description of troops as he might deem necessary." And I risk nothing in saying, that these states were

ready at all times to have responded to such a requisition. Nor can I forbear, in justice to all parties, to mention, that General Taylor wrote to the same officer, on the 16th of February, 1846, ridiculing the idea of a *large* Mexican force attempting to arrest his march, or to invade Texas; and says all these accounts are exaggerated: "I do not believe that our advance to the banks of the Rio Grande will be resisted. The army, however, will go **FULLY PREPARED** for a state of hostilities, should they be unfortunately provoked by the Mexicans." In justice, too, I must call attention to the letter of Secretary Marcy, dated March 2, directing him to give assurances to Mexico that "it is our settled determination, in every possible event, to protect private property, to respect personal rights, and to abstain from all interference in religious matters." This General Taylor did. He was, by the same despatch, reminded, "that in case of hostilities, his advance to the Rio Grande would remove him to a greater distance from the region from which auxiliary forces could be drawn;" and told "promptly and efficiently to use the authority with which he was clothed—to call to his aid such auxiliary forces as he might need." Now, I ask, in the name of justice and common honesty, what propriety is there in charging the Administration with sending General Taylor to the Rio Grande without sufficient force? He says, "the army will go *fully prepared* for a state of hostilities;" but, "I do not think our march to the Rio Grande will be opposed." The Government tells him to "draw any number of auxiliary troops of the description you may need from the South-western States; and as you are removing to a greater distance from your auxiliaries, be on your guard—prepared to sustain yourself against any assault."

I have but one other reference to make to these despatches, and that to the letter of General Taylor, in which he notes for the first time the state of preparation on both sides. Says the General, "The Mexicans still retain a hostile attitude, and have thrown up some works evidently intended to prevent us from crossing the river. On our side a battery of four eighteen-pounders will be completed, and the guns placed in battery to-day. These guns bear directly upon the public square in Matamoros. **THEIR OBJECT CANNOT BE MISTAKEN BY THE ENEMY.**"

It has been falsely charged that these guns were planted by order of the Government. So far from it, General Taylor was directed to maintain the defensive, to respect private property, to protect personal rights, and to abstain from all interference with religion. He writes to his Government exultingly, "we have planted our battery, it bears directly upon the public square in Matamoros, *and within good range for demolishing the town. The object cannot be mistaken by the enemy.*" I do not blame General Taylor for this. **HE DID RIGHT.** No American general would have done otherwise. General Taylor is entitled to all the credit for planting that battery. I know he does not thank any man for pretending to shield him from the odium of the act.

Now, Mr. Chairman, where was this despatch dated? Opposite Matamoros, in Mexico? No, sir. In Tamaulipas? No, sir; but opposite Matamoros, TEXAS. General Taylor set out *for the frontiers of Texas*, and he did not go beyond. He was no Israelitish general leading an army through an unknown wilderness. He knew the country in

which he pitched his tent, and he called it Texas. He so continued to call it in his subsequent despatches.

What, sir, were some of the most thrilling events connected with the earliest history of this war? Point Isabel set on fire, and the brave old General, as he witnesses the conflagration, declares, *I will be trifled with no longer*. He plants his guns bearing on Matamoros, and "within good range to demolish the town," and exultingly says, "their object cannot be mistaken." The heroic Cross is murdered in cold blood, and Thornton and his command taken prisoners. The affairs at Palo Alto and Resaca occur; and what, sir, was the effect produced on the public mind at home by the announcement of these events? By one common impulse, the whole nation rose in arms; a feeling as wide-spread and universal as it was patriotic and just, took possession of every mind; the electric spark that lit the fires of genuine patriotism on the hearts of the people to the remotest nooks and dells of the far west, and all around to the shores of the sea, touched the political, calculating heart of Congress, and by a vote more prompt and more unanimous than was ever before known, war was solemnly declared "to exist by the act of Mexico." Within the last few days, this House has declared, by a strict party vote, that "the war exists by the unnecessary and unconstitutional act of the President." Against this foul charge I have combated, with what success, I leave the committee to decide. But what "has brought this change o'er the spirit of your dreams?" Ah! fatal act; fatal to the best interest of these states, fatal to truth and justice, the bastard offspring of a disappointed patriot. But I will not indulge my thoughts on this subject. The gentleman from Massachusetts [Mr. Ashmun], who introduced this resolution, took his party by surprise, and placed them in a position from which there is no retreat. You have crossed the Rubicon; your votes are on record, and they will rise up like spectres against you in all after time. We accept the issue you have presented, and go into the next presidential contest on it; for, disguise it as you may, the presidency is the grand centre around which all this machinery revolves. The bank had gone down, free trade had become popular, the independent treasury was firmly planted; in short, Whiggery had been sent to graze, like Nebuchadnezzar, and Democracy had been taken into the bosom of the people, and your friend and ally [Mr. Ashmun], struck upon this grand conception; it was the battery with which the defunct bodies of banks, tariffs, distribution, *et id omne genus*, were to be galvanized into a renewed existence. Verily, whom the gods would destroy, they first make mad. Go on; take sides against your country; sympathize with Mexico; refuse, *if you dare*, to vote supplies to carry on this war; strengthen the issue you have already presented; make the breach wider and wider between us, and when the people decide the contest, they will exalt the men who stand by the stars and stripes, and consign to a merited ignominy every man who dares outrage their sense of patriotism by "giving aid and comfort to the enemy."

How is it proposed to raise money to carry on this war? The President and Secretary of the Treasury propose a loan, an issue of treasury notes, and a duty on tea and coffee. The gentlemen from Pennsylvania [Mr. Wilmot] and Indiana [Mr. Smith], and other gentlemen, take fire at this proposition to tax tea and coffee, and pour out their

piteous lamentations over the distresses of the poor man. When, sir, did these gentlemen first learn to sympathize with the poor man? Was it at a time when they were taxing cotton, cloth, leather, iron, coal, and salt? Was it, sir, when they were levying protective duties on these articles, all of which enter into the poor man's consumption? The gentleman from Vermont [Mr. Marsh] pours out the fulness of his sympathetic heart over the poor man's tax on tea and coffee, and then he bewails the downfall of *protection*. You, sir, sympathize with the poor man's tax! you, who would tax all the necessities of life to give protection to some overgrown manufacturer! Strange and incomprehensible logic, that we must tax the poor man's hat, his shoes, his shirt, his plough, his axe—everything, in short, which he consumes, not for the benefit of the manufacturer! but your sympathetic hearts will not allow you to tax his *tea* and *coffee* to support your Government in time of war. You would send him shoeless, hatless, and shirtless, to cultivate his ground without implements, unless he pays tribute to the manufacturers; only give him tea that is not taxed, and you are satisfied. You would lay his diseased body on a pallet that is taxed; give him taxed medicine from a spoon that is taxed; you give him untaxed tea in a cup that is taxed; he dies, and you tax his winding sheet, and consign him to a grave that is dug with a spade that is taxed, and then insult his memory by saying that you gave him untaxed tea. Why, sir, if I thus outraged the poor man's common sense during life, insulted him in his last moments, and whined a hypocritical sympathy over his tomb when dead, I should expect his ghost to rise up in judgment against me.

Other gentlemen may do as they please—for me and my people, we go for our country. We write on our banner, "millions for defence, but not one cent for tribute." Tax our property, tax our supplies, ay, tax our tea and coffee, tax us millions on millions, for the defence of our country's flag and our country's honor, and we will pay it; but if you ask us to pay one cent of tribute to your lordly manufacturers, we rise up in rebellion against you. Take our property for the defence of our national honor, but do not plunder us to make a rich man more rich.

Gentlemen affect great alarm at the thought of direct taxation. The gentleman from Georgia [Mr. Stephens] seemed peculiarly nervous on this subject. He lashed himself into a passion, as other gentlemen have done, declared emphatically that he never would levy direct taxes on his constituents to carry on this "unnecessary and unconstitutional war." I beg gentlemen to quiet their nerves; nobody has asked them to vote for direct taxes; and whenever the President, or Secretary of the Treasury, or the Committee on Ways and Means, ask for such a tax, as necessary and proper, it will be time enough to discuss it.

I shall omit much of what I intended to say, reserving for another occasion my views on the question of indemnity and future security, and upon the disposition which Congress may make of newly-acquired territory. These and their kindred subjects will, I hope, more properly engage our attention at a later period of the session. The Government needs money, and we delay it in needless discussion.

I will vote for a loan, I will vote for treasury notes, and for a tax on tea and coffee; I will vote for men, regulars and volunteers; in short, sir, I will vote for anything and everything that may be needed to prose-

cute this war to such a conclusion as the Government can accept without dishonor. My constituents will sustain me in this. They are patriots: they go for their own country, and against Mexico; and they expect of their representative fealty to their views. Their motto has ever been, "Our country—may she be always right; but right or wrong, our country."

## BOUNTY LAND BILL.

In the House of Representatives, May 8, 1848.—The Bounty Land Bill being under consideration in Committee of the Whole, Mr. BROWN said:

It has not been my custom to enter very fully into the debates which occur in the House from day to day; but on questions like the one now under consideration, it may be permitted me to express my views, and to assign briefly the reasons why, in my judgment, the main features of the bill ought to receive the favorable consideration of Congress.

If any class of the public's numerous servants are more entitled than another to the special regard of the law-making and bounty-dispensing power of Government, it is the soldiers—the men who encounter the toils, the dangers, the hardships and privations of the camp—the men who guard the nation's honor at the peril of their lives, and sacrifice, at the shrine of patriotism, the comforts and security of domestic quiet.

It is not my purpose to tax the republic with ingratitude, or to complain that the soldier's compensation is wholly inadequate to the service performed. Albeit the seven dollars a month which the Government doles out to him bears no sort of proportion to the magnitude of his labor. Not only do you require unceasing toil, but you demand the free exposure of his person to the elements, and the still freer surrender of his life on the field of battle. Nay, you exact a more than slavish obedience to the iron will of a military master, whom your laws have appointed to command him. You and I think we render a tolerable equivalent for our eight dollars per day, when we meet in this hall, on our own adjournment, sit here some three or four hours, and then close the business of the day. Can it be that we shall regard other men, who are our equals in political rights—men, equal to us in all the elements which compose that most extraordinary character, an American citizen—as sufficiently compensated for the severe toils of a soldier's life when we dole out to them seven dollars for a month's service?

I am not for increasing the monthly pay of the soldier, but I am clearly in favor of doing him justice by another means. I would not bankrupt the exchequer, nor compel the Government to go on borrowing to a greater extent than may be absolutely necessary. Happily, the Government has other means of paying her patriotic soldiery—means most abundant and most appropriate for this purpose. The public lands, of which the United States is the undisputed proprietor, can be most advantageously, most wisely and properly devoted to this object. Land to the soldier is often equivalent to, sometimes better than, money—it gives him a home. This, to the young enthusiast, who, forgetful of him-



self, and casting care to the winds, has perilled all and lost all in the service of his country, is the richest reward that his country can bestow. It raises him at once above the pressure of want, it affords an outlet to industry, and inspires his self-confidence. It does more: it rears before him a lasting monument of his country's gratitude, awakening and keeping alive the noble impulses that led him to the tented field.

If you would touch the chords of patriotism, and cause them to vibrate in delightful harmony, you must not grudge the soldier his honest earnings, nor pay him with a stinting hand. You do put poorly reward his toils who wins an empire, if you give him his daily pay and nothing more. There is not a scavenger in your streets that does not get as much as that. The Government is rich in its landed possessions, and out of this abundance I would freely reward the soldier's honest toils. I would give him a home, make him feel that he had served his country to some purpose. What if it take ten millions of acres of land? I care not, sir, if it take ten times ten millions—who is better entitled to it than the man who protected, defended, perchance won it on the battlefield? This Government has many hundred millions of acres of land; it can be no great stretch of liberality to bestow a small portion of it on the men who gave us the whole.

The gentleman from Ohio [Mr. Vinton] has assumed some strange, most extraordinary positions. He says, we did not give bounty lands to the soldiers of the Revolution, and he thence argues that we should not grant the bounties contemplated in this bill. My colleague [Mr. Thompson] has already answered, that the revolutionary soldiers had been pensioned by the Government. A gentleman near me [Mr. Collamer] says the militia were not pensioned. But the gentleman knows that the militia were paid by the states respectively, in whose service they chiefly were, and to the utmost capacity of the states to pay. If they were not fully compensated, the reason will be found in an absolute inability to do so, until time had transferred them to another and, I trust, a better world. But if the Government has for a long time failed in the performance of her duty to her soldiers, is it therefore to be insisted that she never shall perform it? It is not yet too late to do justice to these men of iron will. If any of them have survived the ravages of time, I would to-day greet them with the intelligence that this Government will no longer withhold its bounty. To me it matters not whether a soldier belongs to the regular line or fights as a militiaman: he equally devotes himself to his country, and in the one position as in the other is alike entitled to his country's bounty and her gratitude.

When the gentleman from Ohio reminds us that bounty lands were not given to the soldiers of the Revolution, and that they were otherwise badly paid, he forgets that these illustrious men fought for their homes, their altars, and their firesides. Death was then the reward of cowardice—liberty the price of victory. There were no soldiers that were not citizens; no citizens that were not soldiers. All united in the struggle. It was a common struggle, and a common triumph. Each man gave to himself his own reward. When all were soldiers, they had no one but themselves to look to for bounty lands or other favors. Before the gentleman twits us with the remark that we are more liberal than our fathers, let him remember that our fathers were less able than we to be liberal, and had less reason to be so. They did their own fighting; we do ours

by proxy. They had no one but themselves to pay; we have to pay the men who do our fighting. In the days of the Revolution every man was a soldier; now, about one in fifty has gone out to battle. Before the gentleman cites the fact that our revolutionary fathers did not receive bounty lands, let him contrast the condition of this country, at the close of the revolutionary struggle, with its present position in the scale of nations. He will see thirteen small colonies just emerging from a seven years' conflict with the most powerful nation in the world, worn down with strife, without credit and in debt, watched by the tiger eye of monarchy in the Old World, and without one honest republican face in all Christendom to encourage her with its sympathetic smiles. What could such a country do? Look first on that picture, and now on this. We have twenty-nine states, and territories boundless as half a continent; we are comparatively out of debt, with unlimited credit; above the frowns of the world, honored, respected, feared by monarchy wherever *it yet remains*, and loved by our republican brethren throughout the world. The gentleman who cites what our fathers did not do, and could not do, as a controlling reason for our action, is full seventy years behind the age in which he lives.

The gentleman has another reason, if possible less cogent than the first, for denying this bounty to the soldier. If we give lands to the soldier, he says the speculators will buy them for half, perhaps for less than half, their value. I did not expect to hear such an objection from a source so eminent. It is unworthy of the high source from which it emanates. We owe a debt, but will not pay it because our creditor intends to make an improvident use of the money. As well, sir, might you say that you will not pay the soldier in Mexico his seven dollars per month, because he intended to pay a sutler two prices for his merchandise, as to say you will not give him bounty land because he may sell it for half its value. The gentleman is much too kind to the soldier. Because he may be cheated in the sale of his land, out of very kindness the gentleman will not give him land at all. "Half a loaf is better than no bread;" and though a soldier might be cheated of one-half your bounty, the remaining half, I fancy, would be better than the gentleman's proposition to give him nothing. It is no business of the Government what the soldier does with his land. Let her discharge her duty, and rely upon the soldier to protect his own interest. In the protection he gave his country, he afforded the best evidence of his capacity to take care of himself.

But, says the gentleman, these lands are pledged for the redemption of the war debt. The gentleman forgets his own vote to grant bounties in land after that pledge was given. He then, doubtless, thought, and thought correctly, that so long as the interest on the debt is paid, and the stock redeemed as it falls due, the holders of public securities do not care a fig what you do with the public lands. The stock was never taken on any pledge of lands for its redemption, but on the good faith of the Government that the interest should be paid and the debt redeemed at maturity. For myself, I have no fears of a failure to meet these reasonable and just expectations of the stockholders, whatever may be your disposition of any part or the whole of the public lands.

The gentleman enters into a minute calculation of the probable proceeds of the sales of the public lands, and warns us, if we make these

grants, that there will be fearful deficiency in the revenue for the next year. I now understand him as admitting that the estimates for the present fiscal year will be fully realized; but he predicts, with great confidence, that there will be decided diminution in the receipts for the year ending June 30, 1849. Some months since, the gentleman staked his reputation as a financial prophet that the estimates of the Secretary of the Treasury for this year would be falsified by at least eight millions of dollars. But two months now remain of the present fiscal year. The gentleman's own calculations have been already exceeded by near five millions of dollars; and it is morally certain that the Secretary's estimates will be fully equalled, and in all human probability exceeded, by at least one million of dollars. The gentleman has shown himself a false prophet, and he must excuse us if we decline to repose implicit confidence in his predictions for the future. "Sufficient unto the day is the evil thereof." I am disinclined to indulge in evil forebodings as to the approaching year. The gentleman sees nothing but impenetrable gloom; to my vision the sky is bright, the day dawns beautifully; no cloud is seen, and no storm is anticipated. I am as confident that it will be a year of national and individual prosperity as the gentleman is that it will bring bankruptcy and ruin to the state and people. Much, I am free to admit, depends on the result of the presidential election. I have no doubt of Democratic triumph, and therefore do not doubt that we shall have a season of universal and uninterrupted prosperity.

Reference has been made, in the course of this discussion, to the cost of the public lands; and we have been admonished that vast sums of money have been paid from the general treasury for their acquisition, which, it is said, ought to be returned before we dispose of them too lavishly as bounties to soldiers. I have been at the trouble to compile, from official sources, a statement of the general results of the land operations of the Government up to January, 1846. The main features of this statement have not, I apprehend, been materially altered by the operations since that time. The public lands have cost the Government an average of twenty-three cents per acre:

Up to January, 1846, she had extinguished the Indian title to, surveyed, and offered for sale . . . . .	333,215,648 acres.
Sold up to that date . . . . .	93,872,846 acres.
Revenue from sales up to that time . . . . .	\$130,280,156
Whole cost of lands at 23 cents per acre . . . . .	77,130,498
Net profit . . . . .	53,149,658
Remaining unsold . . . . .	239,342,802 acres.

It will thus be seen that the net profit has been fifty-three millions of dollars and upwards, and that we have yet on hand near two hundred and forty millions of acres. This calculation does not include the Indian annuities, or the expense of our Indian wars, most of which have grown, I admit, mediately or immediately, out of our landed operations, and are, therefore, to some extent, chargeable to this account. But I must also remark that this calculation does not include the unsurveyed lands in Iowa, Wisconsin, and Nebraska; it does not include our vast Oregon possessions; and I suppose it need not be mentioned that both California and New Mexico have been excluded. Of these last it may be said, "we need not count our chickens before they are hatched;" but I will count them, and here express the opinion, that we are much more

likely to get two more states from Mexico than give up the two we already have.

I am for disposing of the public lands freely. To the soldier who fights the battles of his country I would give a home, nor would I restrict him to very narrow limits. To every man who has no home I *would give one*, and, so long as he and his descendants chose to occupy it, they should hold it against the world, *without charge of any kind*. The Government owns more than nine hundred millions of acres of land, and yet thousands of her citizens, and some of them her bravest and best soldiers, are without homes. The dependence of the Government and people should be mutual. If Government relies on the people for defence in time of war, if she expects them to fight her battles and win "empires" for her, the people should expect in return to be provided with homes; and this reasonable expectation ought never to be disappointed.

I have no objection to the Government selling land to those who are able to pay for it, at a moderate price; but I protest my disapprobation of national *land-jobbing*. The nation degrades her character when she comes down to the low occupation of exacting the hard-earned dollars of a poor citizen for a bit of land purchased, it may have been, with the blood of that citizen's ancestors. To my mind, there is a national nobility in a republic's looking to the comfort, convenience, and happiness of its people; there is a national meanness in a republic's selling a poor man's home to his rich neighbor, because that neighbor can pay a better price for it.

It was not my intention to enter very fully into the consideration of all the points embraced in the bill and the amendments. My principal object in rising was to give notice of an intention to introduce certain amendments. The first of these, is to the proposition offered by my colleague [Mr. Thompson]. He proposes to give those who served twelve months in the Northwestern army, prior to the treaty of 1795, or during the last war with Great Britain, for the same length of time, one hundred and sixty acres of land each, and to those who served six months eighty acres. To his proposition I shall offer this amendment:

Insert after the words "eighty acres of land," in line —, "and any such non-commissioned officer, musician, and private of any company of volunteers or militia, who actually served *three* months in said Indian war, or the war with Great Britain, shall be entitled to receive forty acres of land."

It is right to give those who served twelve months one hundred and sixty acres. It is right to give those who served six months eighty acres, and on the same principle it is right to give those who served but three months forty acres of land. It will be doing equal and exact justice, and it is on that principle I offer the amendment.

To the original bill, which proposes to amend the act of February 11, 1847, granting bounty lands to soldiers, I shall propose, when it is in order, the following amendment; as an additional section:

SEC. —. *And be it further enacted*, That the benefits of the 9th section of the above recited act be extended first to the unmarried sisters, and after them to the infant brothers under sixteen years of age, of all deceased officers, non-commissioned officers, musicians, and privates, in the same manner and to the same extent that the benefits of said 9th section are now extended to widows, children, fathers, and mothers of said officers, non-commissioned officers, musicians, and privates.

I need not elaborate this proposition. The heart of every man tells him at once that the defenceless sister and infant brother of a fallen soldier should receive that soldier's heritage, as they do his last fervent and dying prayers. Were it given us to witness the last scenes of the battle-field, how should our hearts be wrung by the agony of an expiring soldier, as he turns his thoughts homeward, and mentally bids farewell to the tender objects of his love, which he is about leaving to the cold charities of this world. Pass this amendment, and say to the dying hero, in his last moments, "depart in peace, your country is friend and guardian to these objects of your fraternal affection." I have in my mind's eye more than one case of touching interest, but the time nor place is appropriate for the mention of them.

I shall propose one other amendment, to wit:

That in addition to the bounty land allowed to volunteers, by the act of 11th February, 1847, to raise, for a limited time, an additional military force, and for other purposes, there shall be a further grant to each of said volunteers of forty acres for every three months' service after the first twelve months.

The justice of this proposition is so manifest, that I will not detain the committee with more than a passing comment. You give to the volunteer soldier, by the ninth section of the act of February 11, 1847, one hundred and sixty acres of land for twelve months' service, or forty acres for each three months of the first twelve. I propose to give him forty acres for each additional three months that he remains in the army. I do this for two reasons: first, that his services are richly worth the compensation proposed; and secondly, that there is manifest and gross injustice in paying one set of volunteers one hundred and sixty acres of land for twelve months' service, and to another no more than one hundred and sixty acres for two, four, six, or even ten years' service, if the war should so long continue.

I have no disposition to detain the committee with any further remarks. The sentiments I have uttered have been dictated by a sense of justice to a most worthy and reliable class of our population. I shall be glad to find them responded to by the committee, especially as they have been delivered with a view to procure proper action on the question involved, and not for home consumption.

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## EXTRA PRINTED DOCUMENTS.

SPEECH IN THE HOUSE OF REPRESENTATIVES, MAY 8, 1848, ON THE DISTRIBUTION OF EXTRA PRINTED DOCUMENTS.

[*March* 20. Mr. BROWN offered the following resolutions, which were read and agreed to:—

*Resolved*, That the clerk of this House be, and he is hereby instructed to send, under his frank, three copies of the printed report of the Commissioner of Patents for the year 1847 to the governor of each state and territory in the Union, for the use of such state or territory, and two copies to the clerk of the county court of each county in the United States, for the use of the county; and hereafter, in all cases where an extra number of any document is ordered to be printed, it shall be the duty of the clerk of the House of Representatives, unless otherwise ordered by the House, to

transmit said document to the states and counties as is herein directed; and to this end, he shall reserve from the first copies delivered by the printer a sufficient number to supply the demands of this resolution.

*Resolved*, That it shall be the duty of the clerk, before he sends the documents above referred to, to have the same well bound.

*May 8.* Mr. BRODHEAD moved that the foregoing resolutions be rescinded.]

Mr. BROWN said: It is well known, Mr. Speaker, that I introduced the resolution which it is now proposed to rescind. A restless anxiety has been manifested to destroy it, even before it has gone into operation, though it was permitted to pass without serious opposition. It is said the resolution passed without consideration. However this may be, it was not introduced without reflection; nor shall it be rescinded without my resistance.

It will be found, on examination, that the practical operations of the distribution of public documents, proposed by the resolution, will work none of that gross injustice of which we hear so much complaint. Take the Patent Office report as an example. You have ordered ninety thousand extra copies of that document to be printed, or nearly one hundred thousand copies in all. Of these, it is proposed to send three copies to each state and territory, or ninety copies to all, and two copies to each county in the Union, or, in the whole, twenty-five hundred and ten copies. To the states and counties you will distribute twenty-six hundred copies, and leave for individual distribution over ninety-five thousand copies. The documents thus sent to the states and counties would be the only ones given to the public; all the rest are devoted to private uses. I know of no authority to print books at the national expense to be presented to private persons. It may be very pleasant for members of Congress to vote to themselves hundreds of thousands of valuable books, at the expense of the general treasury. It is certainly very convenient to have these books on hand when we feel like making a present to some valuable and influential friend; and it has the additional merit of being the cheapest possible mode of displaying our liberality. But by what right is this thing done? By the right of precedent. It is one of the thousand abuses which have grown up from time to time, and which I have very little hope of seeing speedily corrected. The most I hoped to accomplish was to induce you to surrender to public use a very small number of the many thousand volumes for which the public pay. It is something to a member of Congress, who holds his seat by a doubtful tenure, to have it in his power, without one cent of personal cost, to exhibit a mark of special attachment to five or six hundred influential persons in his district, by sending each a valuable book. This is an advantage not readily surrendered; but I had hoped that a decent respect for the public, who pay the whole cost, would have induced us to give them a few volumes. But the cormorant who once feeds on pap like this is slow to give it up.

You have printed, as I have before said, nearly one hundred thousand copies of a single document, or about four hundred and forty-five for each member; and you have paid, or will pay, for them out of the public funds. What is to be done with these books—printed, bound, folded, and laid on your tables, as they are, at the public cost? *You write your name on the envelope*, and they are then carried to the post office at

the cost of the public, conveyed to your *special* friends in the public mail, and on their safe arrival become their *private property*. You have no more right to print books in this way for private uses than you have to make any other presents at the public expense. Suppose, instead of a proposition to print ninety-eight thousand copies of the Patent Office report, or four hundred and forty-five for each member (myself among the rest), to be distributed according to the inclination of the members, I, or any other member, had come forward with four hundred and forty-five names, and proposed the publication of a volume for each one of them: is there a member of this House who would have sanctioned such a proposition? Not one, sir, I venture to assert; and yet this would have been a better proposition than the one you have adopted; for by it you would at least have known who were to be the recipients of the public favor. In common parlance, these books are printed for public distribution, and gentlemen say they want them sent to the public; but by what process of reasoning it is to be shown that ninety thousand *favorites* are the PUBLIC, in a nation of twenty millions of people, I have not been informed. I have proposed to send a very small portion of these publications to the public (about one in thirty-six and a half); no one else has proposed to send a single copy. If you will send, according to my proposition, two copies of a book to the clerk of the county court, for the use of the county, you thereby send it to the people of the county; it belongs as much to one as to another, and may at any time be examined or consulted by all those who desire to be informed as to its contents.

If books are printed, they ought to be preserved; and if they are intended for public use, they ought to be placed where the public can consult them. It is known to every member of Congress that many documents are wasted, literally destroyed here; and when their value is made manifest in some future investigation or discussion, they are procured with great difficulty. In some instances they are found in the shops and book stores; and, as happened with myself the other day, are purchased at some ten or twenty times the original cost of printing. I mention this for the purpose of reminding gentlemen that much that seems to be of no value to-day, may, and will, in the course of time, come to be sought for with avidity. Then let these documents be preserved; send them to the country, where they will be taken care of, and where you and I, and every other man in the community, may find and consult them at pleasure. You may send twenty or fifty copies to as many individuals in a county, and you accommodate only that number of persons; send one or two copies to the county, and you accommodate, to a considerable extent, every man in the county.

Suppose, sir, this or some similar proposition had been adopted twenty years ago, and faithfully carried out; you would now have a respectable political library at every county seat in the United States. Is there a member of this House who would not feel gratified to have, at the court house of each county in his district, a copy of all the extra documents printed by order of Congress for twenty years past? What you may thus have had, you may now have, to a much greater extent, at the end of another twenty years, by simply letting my resolution alone. The growth of the country, the increasing interest in public affairs, and the vast improvements in the art of printing, will greatly augment the num-

ber of publications in future. In the course of a few years you will thus find valuable little libraries rising up all over the country, costing nothing, and conferring great benefits on all who now take, or may hereafter take, an interest in public affairs.

I am surprised that my friend from Pennsylvania [Mr. Brodhead], Democrat as he is, proverbially liberal and sound in his views on almost all subjects, should take the lead in opposition to this measure. The reason, the only reason he assigns for this course is, to my mind, extremely fallacious. That one Congressional district has more counties than another, and will therefore receive a larger number of documents, is the narrowest of all possible reasons for desiring to rescind this resolution. Documents are published for the public instruction, and should therefore be placed in reach of the public. The city and county of Philadelphia has a voting population equal to the states of Delaware, Arkansas, and Texas; but it is a condensed population, and the convenience of the whole may be subserved by one library, located at a central and convenient point; and if the public convenience is answered, that is all that is required. But one, two, or three libraries in the states just named would not answer a like general purpose, because of the want of proximity of the population to the location of the library. My resolution proposes to place these books at the county sites of the several counties in the United States, because these are places where people of all classes meet to transact business of public and private interest; and with the clerks of county courts, because these are officers having charge of county papers, books, and records, and with whom people have constant intercourse. Their offices are public places accessible at all times to the people. My sole view in introducing the resolution was, to place the documents published by order of Congress, and paid for out of the public treasury, in the reach of every man who desired to consult them. I did not then, and do not now, believe that this House ought to print books solely for private uses, and pay for them with the people's money. I contemplated no injustice to any one. Having introduced the proposition, it was proper that I should vindicate it. If gentlemen would forget their own personal advantage, derived from a distribution of these documents, and look a little to the public interest, the resolution as introduced by me, and passed by the House, would stand; but it is probably destined to be rescinded. I have no more interest in the matter than any other member, and; so far as I am *personally* concerned, it is a matter of profound indifference what disposition you may make of it.



## TERRITORIAL GOVERNMENT FOR OREGON.

On the 29th of May, 1848, President Polk communicated to Congress a message, recommending that a territorial government be early provided for Oregon, and also that a military force be at once raised for the protection of the people of that territory. Mr. COBB of Georgia, immediately upon the reading of the message, moved that the bill providing a territorial government for Oregon be at once taken up and disposed of. Mr. HARALSON of Georgia opposed the motion of his colleague, and favored action first on the proposition to raise a military force. The questions embraced in the territorial bill were of such a character that discussion upon them was unavoidable. Mr. BROWN of Mississippi opposed a hurried decision of the vital question, of the power of Congress over the territories, involved in the territorial bill, in the following remarks:—

He said he intended to favor the proposition of his friend from Georgia, who last had the floor [Mr. Haralson], and to express very briefly his opposition to the course taken by his other friend from Georgia [Mr. Cobb]. He was as willing as any other member of Congress that the two Houses should act immediately upon the proposition to give efficient and immediate relief to the people of the territory of Oregon. He believed it was their duty to afford that aid promptly. But he objected to the proposition of his friend over the way [Mr. Cobb], because it contemplated the hurried passage through the House, of a bill involving the most important question which agitated the people of this country. Whenever that question was fairly before Congress, he, for one, desired to hear it discussed by men of all political complexions, and from every portion of the confederacy. He had no idea of seeing the great question of the power of Congress over the territories forced through under the gag. Let the two questions be separated; let the message be referred to the committee on military affairs, and they report that sort of relief which the occasion required; and when the Oregon territory bill came up, let them have a full and fair discussion upon the territorial question. He thought he saw the object of the gentleman from Georgia; in the smoke created by the President's message, in the excitement at the condition of our people in Oregon, to force this question through under the gag, and get clear of this question, involving the most weighty consequences to this entire confederacy, and especially the southern portion of it. However it might affect presidential aspirants, he could not sanction the attempt to blink the question and force it through under the gag. He wished, at the proper time, to express his views upon it, as other gentlemen had done upon occasions when the question did not properly arise. He was not willing that the views of the gentleman from Georgia, who had first addressed the House, should go as the views of the southern portion of this confederacy. He hoped, therefore, the gentleman's proposition would be rejected, and that of the other gentleman from Georgia receive the sanction of the House. Whether the views of gentlemen might agree with those of others, or with those of presidential aspirants, it mattered not; let every gentleman express his own views and those of his constituents boldly, fearlessly. This he intended to make his course.

## GOVERNMENT OF THE TERRITORIES.

In the House of Representatives of the United States, Saturday, June 3, 1848, in Committee of the Whole on the state of the Union, Mr. BROWN said:—

MR. CHAIRMAN, when I had the honor, some weeks since, to deliver my views at length in regard to the Mexican war, I closed with the remark that at some future day I would discuss the question of "indemnity and security," and submit my opinions as to the powers of Congress over newly acquired territory. The treaty lately ratified by the American Senate, if it meets the favor in Mexico, which its friends and the friends of peace here and elsewhere so ardently hope for, will settle for the time being the question of "indemnity for the past and security for the future." Outside of the treaty, we can look to no indemnity, nor can we ask any further security than such as may be provided in that convention.

The time seems appropriate for an expression of my views in regard to the powers of Congress over newly acquired territory. It is so, not only on account of the territory acquired, or to be acquired by the treaty, but because the 12th section of the bill now before Congress, to organize a territorial government in Oregon, assumes a power over the territories not, in my opinion, guarantied to Congress by the Constitution. It proposes to extend the ordinance of July, 1787, over the territory of Oregon; and we have heard it boldly proclaimed, in and out of Congress, that the sixth section of that ordinance is to be extended to all the territories of the United States. That section is in these words:—

"ART. 6. There shall be neither slavery nor involuntary servitude in the said territory, otherwise than in the punishment of crimes, whereof the party shall have been duly convicted: *Provided, always,* That any person escaping into the same, from whom labor or service is lawfully claimed in any one of the original states, such fugitive may be lawfully reclaimed, and conveyed to the person claiming his or her labor or service as aforesaid."

This is the only part of the ordinance that relates to the subject of slavery, as I find it recorded in the journals of the Continental Congress, as having passed July 13, 1787, page 754, vol. 4, House Library.

On page 378 of the same volume, it is recorded that

'Congress took into consideration the report of a committee, consisting of Mr. Jefferson, Mr. Chase, and Mr. Howell, to whom was re-committed their report of a plan for a temporary government of the western territory;

"When a motion was made by Mr. Speight, seconded by Mr. Read, to strike out the following paragraph:

"That after the year 1800 of the Christian era, there shall be neither slavery nor involuntary servitude in any of the said states [meaning the states to be created from said territory], otherwise than in punishment of crimes whereof the party shall have been convicted to have been guilty."

And on the question being taken, the words were struck out—New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, and Pennsylvania, voting in the affirmative; Maryland and South Carolina in the negative; Virginia and North Carolina divided;

Georgia and Delaware not present. This was on the 19th of April, 1784. On the 23d of the same month, the plan was adopted without the paragraph thus stricken out—page 379. I cite these things for the purpose of remarking, that in this early day of the republic, the only opposition to slavery was found in the South; Pennsylvania and other northern states, which then had an interest in its existence, were opposed (if we may rely upon their votes) to circumscribing its limits. And when, in 1787, by the ordinance for the government of the North-western Territory, the resolves of April 23, 1784, were repealed, and slavery and involuntary servitude were denied existence in said territory, it was with a *proviso*—not such as that which now disturbs the deliberations of Congress, and threatens the harmony of the Union—but a proviso “that persons escaping into such territory, from whom labor or service is lawfully claimed in any one of the original states, such fugitive may be lawfully reclaimed and conveyed to the person claiming his or her labor or service as aforesaid.” This *proviso*, thus clearly and distinctly recognising and securing the master’s property in his slave, seems to have reconciled the northern states, for we find them voting for the proposition in this form. Massachusetts, New York, New Jersey, Delaware, Virginia, North Carolina, South Carolina, and Georgia, were the only states present, and they all voted for the ordinance with this proviso. The northern states, now so boisterous against the right of property in slaves, could only be reconciled to this ordinance, now their political Shibboleth, by its clear and distinct recognition of the right of property in slaves. Without this recognition, they were unanimously opposed to it; with it, they were as unanimously in favor of it. They seemed at this time not disposed to send slaves to the west whose labor might come in competition with the labor of slaves elsewhere; but if slaves absconded into that country, the rights of the master were made secure to follow and recapture them. Do gentlemen who stickle so much for the ordinance of 1787, now recognise this guaranteed right of property in slaves? What says the member from Ohio [Mr. Giddings], and he of New Hampshire [Mr. Tuck], and of Massachusetts [Mr. Ashmun]? What say you all of the Abolition school? Will you admit this right of property, or do you recede entirely from the position assumed by the very men you pretend to follow? They voted against the ordinance when it DID NOT recognise property in slaves, and for it when it did so recognise it. You are for the ordinance without this recognition, and against it with it; and yet you claim the men who passed the ordinance as your guides and your example. You unhesitatingly proclaim a right in Congress to extend the first part of this ordinance over all the territories of the United States, and I as unhesitatingly assert that Congress has no power to extend it over any part of those territories. The powers of the Continental Congress of 1787 and the United States Congress of 1848 are widely different. The first acted under Articles of Confederation, the last under a written Constitution. In maintaining, as I do, that the Constitution, no less than the ordinance, *recognises* the master’s property in his slave, I am not to be understood as saying that slavery was *established* by the one or the other; very far from it. The Continental Congress, and after it the convention that framed the Federal Constitution, found slavery in existence. The relation between master and servant was established in the earlier days

of our colonial existence. I have in my possession a copy of the "Boston Gazette," a newspaper printed in the city of Boston, January 22, 1739. This sheet, now more than one hundred years old, contains these advertisements :—

"If any person has a young negro woman (that can be well recommended) to dispose of, they may hear of a PURCHASER by inquiring of the publisher."

"A young negro, not twenty-two years old, who has served seven years to the tailor's trade, and understands household business and cooking tolerably well, to be SOLD. Inquire of the printer."

And again :—

"A negro man, about twenty-six years of age, fit for town or country business, to be SOLD. Inquire of the printer. This negro has been above seven years to the business of ship-carpentering."

Considering that the Boston Gazette at that day was, by actual measurement, just eight inches wide and ten inches long, it will be confessed it had tolerable patronage in the business of advertising negroes for sale.

By reference to a volume, entitled "History of Slavery," it will be seen that not many years since, Providence, Boston, and other New England cities were great slave marts. The traffic was conducted in its most revolting forms throughout New England and the Middle States—so much so, indeed, that the anti-slavery missionaries were sorely grieved, and in one instance a pious old man, of *great learning and vast philanthropy*, is said to have died of grief, after visiting Rhode Island and witnessing the conduct of slave-owners and slave-dealers in that state.

It is not my purpose to trace the history of slavery and the slave trade, in the states now so clamorous in favor of universal emancipation; but I may ask if it is quite modest in them, so lately recovered from this "MORAL LEPROSY," as they are pleased to call the institution of slavery, to taunt and jeer us for its continued existence in the South, seeing that they brought it among us, cherished and cultivated its growth, and finally sold it to us for gold and silver.

Mine is a different purpose. I desire to investigate the powers of government over slavery as it now exists, and as it did exist at the adoption of our present form of government. I do not pretend that the Constitution established slavery; it was not necessary for it to do so. It found it in existence, already established. I assert that it clearly recognised it as a thing *in esse*—something fixed, established, interwoven with the future destiny of the country. In proof of this, and without elaborating the point, I refer to the 2d section, 4th article of the Constitution, and to the 2d section, article 1, of the same instrument; and if these be not sufficient, the man who doubts may satisfy his mind beyond dispute or cavil, by consulting the debates in convention on these two sections of the Federal Constitution. The question which we are now to consider is not, who or what first planted slavery in America? but, what are the powers of Congress over the question as it now is? This must be ascertained by a rule of construction long since established, and now by all true republicans acquiesced in as sound and orthodox. This rule limits the powers of Congress, under the Constitution, to the performance of such acts as are expressly permitted by the delegated

authority from the states, and to such other incidental acts as may be necessary to carry out the expressly granted powers. Under what clause in the Constitution does the power exist to intermeddle with the question of slavery, or to extend the ordinance of 1787 over newly acquired territory? You claim the power to extend the ordinance under the authority "to dispose of and make all needful rules and regulations respecting the territories and OTHER PROPERTY of the United States." Can any man read this third section of the fourth article of the Constitution, and come to any other conclusion than that the territories are treated of as property? Congress has power over the territories and *other property* of the United States. This, it will not be contended, conveys any *express* authority to exclude settlements or to deny admission to the institution of slavery.

May these things be done as the fair incidents to the power expressly given, "to make all needful rules and regulations respecting the territories and OTHER PROPERTY of the United States?" It would be strange indeed, if the inferior grant contained in the Constitution to legislate over the territories as property—the common property of the United States—should carry with it, as a necessary *incident*, the vastly more important power of regulating the political institutions of these territories—now, and for all after time, to exclude the citizens of one-half the Union, and totally to deny admission to an institution recognised, if not established, by the Constitution. The subordinate would thus rise above its superior, and the incidental become paramount to the express grant. The ordinance is in itself a nullity, so far as these territories are concerned. It dates anterior to the Constitution, having been adopted July 13, 1787. The Constitution, as is well known, was not finally acted on in convention until September 17, 1787, and it was accepted by the states in the following order: Delaware, December 7, 1787; Pennsylvania, December 12, 1787; New Jersey, December 18, 1787; Georgia, January 2, 1788; Connecticut, January 8, 1788; Massachusetts, February 6, 1788; Maryland, April 28, 1788; South Carolina, May 23, 1788; New Hampshire, June 21, 1788; Virginia, June 26, 1788; New York, July 26, 1788; North Carolina, November 21, 1789; Rhode Island, May 29, 1790. The Constitution was not established until it had been ratified by nine states. New Hampshire accepted it June 21, 1788, and she was the ninth state in this order that ratified it. It will be thence seen that the ordinance was adopted nearly twelve months before the Federal Constitution was established. If this ordinance had been expressly recognised in the Constitution, it would have put the question at rest for ever, so far as the Northwestern territory, to which it alone relates, is concerned. If it had been extended in express terms to other territories, it would have been conclusive as to the powers of Congress. The question was then before the country, and the power of Congress over slavery was prominently before the convention. That we do not find the principles of the ordinance incorporated into the Constitution, is presumptive evidence that it was not intended to delegate to the federal power authority such as is now claimed over the territories. It may be said that the Constitution did not abrogate the ordinance, and therefore left it in force. So far as the territory to which it relates is concerned, this may be true. I neither deny nor admit the truth of that proposition. But most certainly an omission to abrogate an ordinance

applicable alone to the Northwestern territory, would not, *ex necessitate rei*, extend its provisions to territories thereafter to be acquired. The territory of Oregon is by some claimed as a part of the Louisiana purchase; others, I know, base our title upon the grounds of discovery and settlement; no one pretends that it is any part of the Northwestern territory, the Mississippi being the utmost western limit of that country. But through whatever source we may derive our title, I cannot be mistaken in the position that the country must be governed by the constitution, convention, ordinances, and laws, in force at the time the cession was obtained or the discovery made, and applicable to the territory acquired or discovered. It is incompetent for Congress to impose other limitations and restrictions than those in force at the period of the acquisition, and applicable to the thing acquired. The ordinance of 1787 having been enacted anterior to the adoption of the Constitution, under Articles of Confederation which were superseded by the Constitution, could only stand, if stand it must, by the forbearance of the convention, but could not rise above or mingle its existence with the Constitution, which became, on its acceptance by the states, the paramount law of the land. The ordinance, therefore, so far as newly acquired territory is concerned, is a dead letter, and we must look to the Constitution for the rule of our conduct in the government of such territory, as we do on all other questions; and that Constitution, so far from giving the power to extend the ordinance, does, in my judgment, prohibit it. But before I enter on this part of the subject, allow me to respond to certain arguments which have been, and will again be, founded on supposed precedents. We shall be told, that by the act of March 6, 1820, and the several succeeding acts admitting Missouri into the Union, commonly called the Missouri compromise, the power in Congress, to a limited extent, to exclude slavery from a territory, was conceded.

The argument is neither just nor sound; but its introduction here gives me an opportunity, which I eagerly embrace, of expressing my opinions of that compromise. It has been the theme of many eloquent harangues; and of all the thousand orators who have thrown garlands on the brow of its great author, or strown his pathway with richest flowers, none have apostrophized more eloquently than those whose theme has been this far-famed Missouri compromise. But, notwithstanding this, it stands out, "a fungus, an excrescence, a political monstrosity." It was the first, greatest, and most fatal error in our legislation on the subject of slavery. It violated at once the rights of one-half the Union, and flagrantly outraged the Federal Constitution. It undertook to abrogate the constitutional privileges of one-half the states, and, without any adequate or sufficient consideration, to surrender the rights of every slaveholder in the Union. The compromise has been called a contract. But a contract, to be binding, must be mutual in its obligations: there must be something given on one side, and something received on the other. By this compromise—this misnamed contract—the slave states gave up their right of settlement north of the parallel 36° 30'; but the non-slaveholding states did not surrender their right to settle south of that line. The free states have all the rights they ever had. The South gave everything, and received nothing. North of 36° 30' no slaveholder dare go with his slaves; south every northern man may settle with whatever chattels he possesses. The compromise

is wanting in all the elements of mutuality which render a contract binding, and is therefore void. This thirtieth Congress has no right to surrender, by gift or barter, the political rights of one-half of the confederacy, or even one state of the Union; and yet this Congress has all the constitutional powers that belonged to the sixteenth Congress, which enacted the compromise. It has no more, nor less. The powers which belong to this Congress have belonged to every one since the adoption of the Federal Constitution; and they must remain unimpaired to each succeeding Congress. Political rights are not the subjects of bargain and sale under the Constitution; and if one Congress, forgetting what is due to its successors, surrenders any of these rights, they may be resumed by any subsequent Congress: and this ought especially to be done if the surrender has been made without consideration. In the case of the Missouri compromise, the South has not only got nothing that did not belong to her before, but has purchased, by an unwise and unconstitutional surrender of her rights above the compromise line, insecurity and perpetual annoyance to her interests below it. Already we are told that the contract is binding only on one side. Whilst we are forbidden to carry slavery north of  $36^{\circ} 30'$ , the enemies of that institution proclaim a settled purpose to exclude it from the territories south; and, strange as it may seem, cite the compromise act as a concession on our part of their right to do so. I know not which most excites my wonder, that we should have entered into this naked contract, or that they who have all the advantages should be the first to violate it, and, in the very act of its violation, proclaim its binding force upon us. We tamely give up one-half our rights, without consideration and without security, and then are told, that, because we gave up one-half, we must now give up the other half also. I suppose we are expected to carry out *literally* the scriptural rule—"If a man sue you at the law and take your coat, give him your cloak also." I know not if the South will consent to be thus led to the slaughter-house; but if she does, I freely proclaim that she deserves no better fate than there awaits her. So far as the introduction of the ordinance of 1787, or the Wilmot proviso, into the Oregon bill, is concerned, it is the veriest abstraction that was ever thrust into any bill by bad men for bad purposes. Nature has erected an insuperable barrier against the introduction of slaves into Oregon, as she has, indeed, against its introduction into any territory above the parallel  $36^{\circ} 30'$ . It is not, then, that you fear its introduction there. It can never go there; no one here expects or desires that it ever should. Then why thrust the proviso into the Oregon bill? You have done it for the purpose of forcing the South to admit by her vote, if she votes in favor of the bill in its present form, that "Congress may exclude slavery from a territory;" and this admission you intend to use against her in after time, when we come to legislate for New Mexico and California; or, if we vote to strike out this proviso, we are to be charged with a disposition to introduce slavery into Oregon: and this when you know full well that there is not one man in Congress who desires or expects that slavery is ever to exist in Oregon, or in any other territory above  $36^{\circ} 30'$ .

Before I progress further in my remarks, let me turn to a speech made by an honorable member from Maine [Mr. Smart], some several weeks since. He is a bold man. He comes forward as a sort of *Jupiter Tonans* of the anti-slavery men in his state, asserting that MAINE has

taken her position against "slavery and involuntary servitude in the territories," and adduces what he calls "precedents" for the legislation by Congress over the question; and because he finds what he fancies a precedent, he thence concludes that he is right in the bold assumption that Congress may rightfully exclude slavery from the territories. Did it never occur to the gentleman that precedents might be wrong? Does he mean to assert the perfect infallibility of our "illustrious predecessors?" If so, I warn him that he bestows a meed of praise which those who come after us will be slow to award him and his associates. For myself, I respect precedents just so far as they are within the pale of the Constitution, and are sustained by reason and sound sense, and no further.

But what does the gentleman's precedents amount to? Nothing, sir; literally nothing. First, we are told that Congress, by an act of March 26, 1804, provided that no slave should be brought into Louisiana, then a territory, except by citizens of the United States. Well, sir, what of that? Does the gentleman mean to put citizens of the slave states on no better footing than foreigners? Does he intend to make aliens of them—to remove them from under the protecting influence of the Constitution? We contend that all the citizens of the United States have equal rights in the territories, and no more than equal rights; and whilst we admit that a citizen of Maine may freely settle in any territory of the United States, with his goods and chattels, of whatever kind or description, we ask the same, *and no greater, right* for citizens of slave states. But, says the gentleman, Congress has denied to foreigners the right to carry slaves to the territories, and therefore may exclude a citizen of Mississippi with his slaves. Let me remind the gentleman of what seems not to have occurred to him, that the people of the slave states are citizens of the United States, and have rights under the Federal Constitution which do not belong to foreigners—rights equal with those of the free states; and in this he may find a full answer to his precedent. The gentleman was not more fortunate in his second precedent. He informs us that by so recent an act as of June 30, 1834, Congress abrogated an act of the Legislative Council of Florida, which act levied higher taxes on slaves belonging to non-residents than on those belonging to citizens of the territory. It seems to me, the honorable gentleman was hard pressed for a precedent when he seized on this. So far from the act of Congress which annulled the unequal tax law of Florida operating to exclude slavery from the territory, it was calculated, in an eminent degree, to encourage its introduction there. The climate and the general uncultivated state of the country at that time were well calculated to deter the planters in the Carolinas and Georgia from making a personal residence in the territory. But many of them, invited by the wonderful productiveness of the soil, chose to settle plantations there. The Legislative Council of Florida, desiring a white population, adopted the plan of levying a discriminating tax, with a view of forcing a white emigration to the country. This, Congress abrogated, or rather declined to sanction; and for the reason, I suppose, that it was violative of the great conservative principle, that taxation must be equal. Whether Congress has the right to interfere at all with the legislature of a territory may be well questioned. But if interference is ever admissible, this was just such a case as would justify it; and in it I recognise



no pretence of authority over the question of slavery. The act was calculated in its effects to promote the growth of slavery in the territory, though the design was simply to vindicate a great republican principle.

But there is another paragraph of the gentleman's speech so extraordinary, so strangely conceived, that I will be excused for adverting to it. The gentleman says, "We are told by some that the 'territories are the common property of the whole Union, and that all the citizens of all the states have a right to go to them with their property.'" Exactly so, sir; I could not have stated my own views more fairly. We do contend for an equal interest in the common property of the nation; but, unlike the gentleman, we claim no exclusive rights. How does the gentleman proceed to combat this idea—I had almost said this self-evident proposition? Why, says he, "gentlemen owning slaves may hold them on every square mile of the territory, and thus propagating slavery, they may exclude both the tenants and their property from the free states as effectually as if they were excluded by law." Was ever so feeble an argument made to sustain so poor a cause? What rights have the slave-owners there—what have they ever claimed that they do not freely concede to you, in an equal degree with themselves? The slave-owner purchases the fee in the soil from the Government, and settles on it with his slaves; and anon the anti-slavery man makes his purchase, and settles down in close proximity: does any slaveholder say this shall not be done? Is there any disposition, anywhere, to exclude the emigrant from a free state? None, sir, none. But the gentleman goes on—"With the acquisition of California and New Mexico, our country will embrace an area of about 2,600,000 square miles. Of this immense territory, 2,000,000 of square miles would be open to slavery, and less than 600,000 to FREEDOM." I will not charge the gentleman with a wilful intention to mislead the public mind; but I will say that no case was ever more speciously stated and with so little of real candor. Is there one inch of territory within the broad area of this Union from which freedom is excluded? Is there one acre of soil in any one of the states or territories, to which a citizen of Maine may not acquire a title, and on which he may not rear his castle of defence, and sit himself down, with *his property and family around him*? Yes, sir, two millions six hundred thousand square miles, embracing thirty states, and territories equal to ten other states as large as Mississippi, are *now* open to the occupancy of the citizens of the free states, their families, and their *property*; whilst the slaveholder is already confined to fourteen states, including Delaware, and you desire still further to circumscribe these narrow limits. A citizen of Maine may come, as hundreds have come, to Mississippi, with his property of every kind. But a Mississippian dare not go to Maine with his property; and yet the representative from that state tells us that the slaveholder may exclude the people of Maine from the new territories; that the slaveholders will multiply themselves like the locusts of Egypt, and overrun the whole country; and that modest, retiring New England will find the doors of the territories closed against her.

Why, sir, lands, as we all know, in the new states are like the waters of life, to be had without money and without price. Let the gentleman and his constituents come freely; we shall be glad to receive them, to

make slaveholders of them. But if they prefer to cultivate soil with their own hands, or to perform their labor without the aid of slaves, they will find hundreds and thousands of white men doing the same thing, and not in any degree less honored and less respected on that account.

The gentleman will allow me to say that I judge men's faith by their works. If he will come south, enter upon our rich lands, cultivate cotton, toil in the open sun as our people toil, sell the products of his labor, invest the money in negroes, and SET THEM FREE, he will have shown his faith by his works; but I take leave to say that we do not hear with much complaisance a people who have grown rich off our labor through the operation of unequal revenue laws, ask us to emancipate our slaves, to throw away our labor, merely because their tender consciences are lacerated by the existence of slavery in our part of the Union.

Congress, I have said, has no power under the Constitution to exclude slavery from the territories. The exercise of such a power is equivalent to the bold assertion of a right to exclude the inhabitants of fourteen states of this Union from all participation in the enjoyment and ownership of the property of all the states. True, you do not say in terms to the southern slaveholder, "you shall not settle in the territories;" but you concede him the right to do so, only on condition that he will leave his slaves behind. Thus you concede a right, and then virtually annul it by making its exercise depend upon the abandonment of another right still more important. To yourselves you concede everything and deny nothing. I dispute your right thus to discriminate; and at once, and without hesitation, proclaim the great political truth, which lies at the foundation of all our institutions, of equal and exact justice to all.

The power to exclude a citizen of the United States with his property, or to close the doors of the territories against the admission of a constitutionally recognised institution of the country, is not found among the powers delegated to Congress. It is in itself an important and substantive power, and not the mere incident to some given power. It is a thing to be done by the sovereign, and not by a subordinate. In whom does the sovereignty over the territories reside? In the people of the states, in their separate and distinct capacity as such, and in contradistinction to their general capacity as citizens of the United States. I maintain the sovereignty of the people by states, and repudiate the idea of a consolidated sovereignty in the people of the United States. The states, or the people of the states, in their state capacity may, in convention, exclude slavery or any other institution from the territories, because they have the right of sovereignty—a right which has never been delegated to any other power. Congress may have a right to legislate for the territories; but if so, it is a right limited by the terms of the Constitution, and does not affect the question of sovereignty. "The powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively or to the people," is the language of the Constitution. The power over slavery—an institution recognised in the Constitution—was not delegated, and therefore cannot be exercised. Within the states respectively, it belongs to the state, and in the territories *it is reserved to the people*. Congress has no other powers or jurisdiction than such as it derived from the states. The power over slavery was not thus derived. A state has jurisdiction only within its limits, and has not, therefore, any power

over the territories. It is, in truth, a power denied to the states, not delegated to Congress, and must, in the language of the Constitution, be "reserved to the people." The federal and state governments having carved out their respective portions from the mass of political powers, the residue remains to the people, and among these is the sovereignty over the territories.

The people hold the territories as tenants in common, and all or any part of them may enter these territories from any and all parts of the United States, and take with them their property. They may enact laws for their personal protection and the preservation of their property, but they cannot exclude others who come after them from the possession and enjoyment of equal rights with themselves.

The first who enter the territory cannot assume a sovereignty which belongs to all. The specific exercise of sovereignty over the question of slavery is held in abeyance until the people of the territory ask admission into the Union as a state, according to the Constitution; and being admitted, the state becomes sovereign within her limits. The power of sovereignty here passes from the people to the state, and the state, in the exercise of this sovereignty, may exclude slavery if she thinks proper. Up to this period, no power exists to exclude it but in the people, acting through a convention of the states. Many political rights were delegated to the states, and many others to the United States. But the people wisely reserved the sovereignty of the territories to themselves. Am I asked, what is to be done if the first inhabitants of a territory undertake to exclude slavery? I reply, that they are not more likely to exclude a slaveholder than a non-slaveholder; certainly they have no more right to exclude one than the other. Suppose these early inhabitants should undertake to exclude all who were not slaveholders, what would you do? You would, if you thought proper, enter the territory without regard to such impotent pretence. If you were forcibly ejected, you would call it revolution. But it would be no more revolution thus to expel you, than if the same power were to expel me. Our rights being equal, our remedies would be the same. All are equals; all have equal rights, whether citizens of the slave or free states; and whenever the Constitution fails to afford equal protection to all, the powers of the Government are at an end—the days of the republic are numbered. What I contend for are constitutional rights. I do not say that these rights may not be wrested from me by force, or that a mal-administration may not render them nugatory. But I do not anticipate such a state of things; I rely upon the Constitution to protect me; and shall not admit a doubt that it will prove efficient for that purpose. I have heard the question asked, Suppose the legislative council of a territory refuses to pass laws to protect slave property, what shall we do in that case? Suppose this council refuses to pass laws to protect the lives, characters, and personal liberty of the citizens, what would you do? Suppose the first settlers in a territory take possession of its government, and refuse to pass laws to give protection to the persons and property of any others than themselves, what would you do? You tell me that such suppositions are not admissible, and so I think. It is inadmissible to suppose that legislators in any part of the world neglect the important office of giving protection to the lives and property of the citizens. Fidelity to the oaths they take would exact this, though justice slum-

bered in their breasts. All these suppositions are based on the hypothesis that discriminations may rightfully be made against slaveowners and slave property, which I am far, very far, from admitting. No such discrimination can be made. The same oath, the same conscience, that binds the law-maker to give protection to you and your property, binds him in an equal degree to give protection to me and mine. And I no more fear than you, that this oath or this conscience will be violated. Our rights are precisely equal. I admit that by force, fraud, and perjury, I may lose my rights, and by the same means you may lose yours.

I shall not admit, as some southern men have done, a right in the people of the territory to exclude me and my constituents from a full participation in the use and occupancy of these territories. There is something so monstrous in such a proposition that the mind recoils instantly on beholding it. Suppose you receive (as you probably will within the next week) the Mexican treaty ratified, and that you proceed, before the close of this session of Congress, to organize a territorial government in New Mexico and California; will the present inhabitants of these territories have the right to exclude whom *THEY* please? Do gentlemen mean seriously to contend, that after fighting out this war, at the expense of more than fifty millions of dollars, and the sacrifice of more than five thousand precious lives, we are not now to settle in the territories acquired by this vast expense and sacrifice, until the Mexicans inhabitants shall be willing to grant us leave? Do they mean to assert that the victorious and proud-hearted American is to go, cap in hand, to the miserable, cringing Mexican peon, and ask his permission to settle on the soil won by the valor of our troops at Buena Vista, or before the walls of Mexico? Truly, sir, there is something new in the law of nations—this doctrine that the conqueror may only use his conquests as the whims and caprices of the conquered may choose to dictate. I should like to hear gentlemen who hold these doctrines advancing them to our southern soldiers. I should be glad to know what response a member of the 1st Mississippi rifles, or the South Carolina Palmetto regiment, would make to a member of Congress who would tell him that he could not take his property to California until the Indians and Mexicans in that country gave him special leave to do so. Having conquered the country, they doubtless concluded, as I have done, that if the Mexicans remained, they would do so by the special grace of the conqueror.

The conclusion, Mr. Chairman, to which my own mind has arrived on the several points involved, are briefly these: That every citizen of the United States may go to the territories, and take with him his property—be it slaves, or any other description of property. That neither the United States Congress nor Territorial Legislature has any power or authority to exclude him; and that the power of legislation, by whomsoever exercised, in the territories, whether by Congress or the Territorial Legislature, must be exerted for the equal benefit of all—for the southern slaveholder no less than for the northern dealer in dry goods.

One other view of the subject, and I am done.

Not only, sir, is the law, but the justice and morality of this territorial question with the South. Shall the southern soldier, who shed his blood in the acquisition of territory, be told he has no right to the fruits of his own victory; that his toils have been bootless to himself and his

posterity; that the citizens of Massachusetts, who looked on with cold indifference, sympathized with our enemies, and received the intelligence of our triumphs with secret pain, have acquired every right—rights purchased with blood; and that he who shed that blood, and yielded up his life on the battle-field, got nothing for himself, and left no inheritance to his children. Go, sir, to the other end of this capitol, and witness a meeting of the Senate; you may see a modest, retiring gentleman, a young man, a young senator, but an old soldier, as he enters that chamber, leaning on his staff. He is lame; his blood stained the battle-field of Buena Vista: shall the gallant and intrepid Davis be told that he has no right to settle in New Mexico or California with his property; that this is a right reserved to the senator from Ohio (Mr. Corwin), who would have greeted him on this the field of his glory, with “bloody hands, and welcomed him to a hospitable grave?” A few days since, you may have seen, in this city, another soldier of this war, a major-general in your army—a gentleman, a scholar, a statesman, and a slaveholder. On the breaking out of this war, he gave himself wholly to his country—perilled his life—severed the ties that bound him to his family and friends—sacrificed the enjoyments of domestic quiet—abandoned a home blessed with all the comforts that affection could bestow or wealth could purchase, to encounter the hardships of a military camp in a distant and inhospitable country; and must he be told to stand back and witness the fruits of his toil-lavished upon the sympathizing friends of Mexico? Must Major-General Quitman be thrust aside, that place may be given to General Appleton Howe? Must the general who fought the battle yield the fruits of his victory to one who remained at home, sympathizing with his country’s enemies, and refusing the last solemn tribute of respect to a son of Massachusetts—a son who yielded up his life in defence of his country’s honor, nobly defending his country’s flag?

General Taylor, whom you would make President even against his will, is himself a slaveholder, an extensive cotton planter, in my own district. Suppose he should desire to remove his slaves to New Mexico, or California: is he to be told, that after all his toils, his dangers and privations—after having “won an empire”—he shall be an outcast, without the poor privilege of occupying the very soil which his skill and valor won for his country? But why specify individual instances, when there is not a battle-field, from Palo Alto to Agua Nueva, nor one, sir, from the castle of San Juan to the inner walls of the city of Mexico, that is not crimsoned with southern blood; not a field from which the disembodied spirits of southern patriots have not ascended, where their bones do not now lie bleaching? Shall the fathers, brothers, sons of these men, be expelled from the country purchased with their lives, and baptized in their blood, and see it given to a miscreant who “played such fantastic tricks before high heaven as made the angels weep”—a wretch who, to gratify the malignity of a vicious heart, libelled his species, insulted the ashes of a fallen patriot, and wrote infamy on his own brazen front? The hour that witnesses this black injustice will date an era in the decline of this great republic. The vote by which this foul wrong is consummated will unhinge the Constitution, and leave our country at the mercy of the winds and waves of popular fury. I am not authorized to speak for the entire South; but for my own gallant little state, I can and will speak. She never will submit to a wrong like this;

no, sir; never, never, never! There she stands, on the broad platform of the Constitution; weak in numerical force, strong in the consciousness of her own just cause, fresh from the field of her glory, still dripping with the blood of her best sons; and there she will stand, until the shock that drives her from that position shall crumble the Constitution beneath her feet. She hates injustice, and loves the Constitution; she cherishes the memory of her fallen sons with all the fondness of paternal affection, and she will see justice done their memory; she will demand justice, according to the Constitution, for their families and friends. No power on earth can deprive them of this but the power of despotism. When that is exerted, the tocsin will sound; the spirit of Washington will depart; the Constitution will pass away as the baseless fabric of a vision; anarchy will reign triumphant. May God, in His mercy, preserve us from such a calamity!

## SLAVERY NO INCREASE OF THE POLITICAL POWER OF THE SOUTH.

On the 1st of August, 1848, Mr. ROBERT C. SCHENK, of Ohio, in the course of a speech on the Oregon bill, in the House of Representatives, said:

"But, sir, regarding this as a political question purely, or one, if you will, of political power, there is a thing connected with slavery to which we cannot and will not be blind. It is the advantage in federal representation which it gives. This much we do know in the free states, if we know nothing else: that a man at the South, with his hundred slaves, counts sixty-one in the weight of influence and power upon this floor, while the man at the North, with his hundred farms, counts but one. Sir, *we want no more of that*; and, with the help of God, and our own firm purpose, we will have no more of it. Therefore, above all, it is that we want no more slave territory. That is a sufficient and conclusive reason, if there were no other; and it might as well be distinctly understood first as last.

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"Sir, shall I illustrate to show that we understand this matter? There is the district of the honorable gentleman from South Carolina, who would amend so as to extend slavery into Oregon. I have not consulted the census to see how it may be in his particular case, but he probably represents some five or six, or eight thousand voters. Now, there are about eighteen thousand voters in my district—eighteen thousand free white male adult citizens. These eighteen thousand freemen have one voice and one vote—I would it were an abler one—on this floor. The five thousand or eight thousand in South Carolina have the same. On every bill or resolution, or other subject of legislation here, the eighteen thousand in Ohio can say aye or no—once and no more—while one-third or one-half that number in South Carolina have also their aye or no. We do not complain of this. I wish it were not so. But so it was arranged, so agreed that it should be, by our fathers when they framed the Constitution; and we will hold by that agreement in all good faith, and submit to it as part of the price paid for this Union. But let there be no more slave territory to make more slave states, to give us more of this slave representation and inequality of weight in the councils of the nation."

GOVERNOR BROWN promptly responded, exposing the fallacy of slavery

increasing the representative power of the South. Having offered an amendment *pro forma*, he proceeded to say:—The South had contended for the constitutional right of her citizens to emigrate to the territories with their property, and the error into which Northern gentlemen were continually falling, was in attempting to discriminate between slave and other property. The Constitution made no such discrimination, and it was not in the power of Congress to do so. Mr. B. said his principal object in rising at this time was to correct an error very common of Northern politicians, and into which the remarkably astute gentleman from Ohio [Mr. Schenk] had just fallen. That gentleman had stated, with great earnestness and apparent candor, that the slave states had an undue or disproportionate political influence in this House, in consequence of the slave population within their limits. Exactly the converse of this proposition was true. The slave states lose political influence, in consequence of the slaves within their limits. In the gentleman's state, as in all the free states, the entire population, white and black, were enumerated, and all were taken into the account in fixing the ratio of representation. A free negro in Ohio counted as much as a white man, in the general enumeration of her population, and so he did in Mississippi, and in every other state: but how was it with slaves? Under the Constitution, two-fifths of the whole number were excluded, the rule being to compute the whole number of free persons, including those bound to service for a *term of years*, and excluding Indians not taxed, and then add three-fifths of all other persons, in other words, slaves. Now, what was the practical operation of this rule? Certainly not to increase our power and influence here. In his (M. B.'s) state, a little over one-half of the whole population were slaves. Of these, two-fifths are excluded in fixing the ratio of representation. Two-TENTHS of the *entire* population are left out of the enumeration, and our political influence diminished by that amount; and yet the gentleman stands up here and misleads the public mind, by asserting that slavery increases the political power of the South.

Mr. SCHENK. Does the gentleman represent the slaves in his district?

Mr. BROWN. I represent three-fifths of them; the other two-fifths have no representative.

Mr. SCHENK. Do the slaves vote?

Mr. BROWN. Certainly not: nor do the women and children. Yet women and children are included in the enumeration, and are represented. The free negroes in the gentleman's district do not vote, yet they are all counted in fixing the ratio of representation. The gentleman represents all the negroes in his district, though they do not vote. I only represent *three-fifths* of the negro slaves in my district, and the political power of the district to the extent of the remaining two-fifths is diminished.

Mr. SCHENK. Do you not represent them as property?

Mr. BROWN. I cannot allow the gentleman to change the issue. Does he not regard them as *people*—as *population*? Set them free, and you do not increase thereby their civil rights, but you would give them their full weight in representation. At present they have a mixed character: they are property, it is true; but then, they are *persons*. By the laws of the land, they may commit crimes, and crimes may be committed against them. It is murder, unlawfully and wickedly to kill a

slave; and if a slave maliciously slay a white man, or a fellow-slave, he is guilty of murder. In this and in many other respects, slaves are persons. The gentleman regards them as persons in all respects; and seeing two-fifths of these *persons* excluded from representation on this floor, he yet complains that our influence is increased in consequence of our slave population. Suppose there to be five millions of slaves in the United States (we all know there are not so many by great odds), three millions enter into the computation, and are represented on this floor. Set them all free, and the whole five millions would come in, and our influence and power be thereby increased by the additional two millions. But without special legislation for that purpose, free men of color would not have the right to vote any more than slaves have that right. The civil and political rights of the negro are not increased by the mere act of setting him free. He may rise by mere possibility in the scale of social importance; but the chances are, that in the course of three or four generations, he will relapse into his original position, and become little else than a degraded animal.

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## ANTONIO PACHECO.

In the House of Representatives, December 29, 1848, on the bill making provision for paying the heirs of Antonio Pacheco, for a negro slave, employed by the United States Army in Florida as a guide, who escaped to the Indians and was removed with them by the Government to the lands reserved for the Indians in the West—  
Mr. BROWN said:—

THE views presented by the gentleman who had just taken his seat were of a character so extraordinary as to require an immediate response. They were the views frequently presented by northern men, and by which the people of the North had continually been led into error upon the subject of slavery. The gentleman had said that he did not desire to inflict any torture upon the feelings of southern men. He begged the gentleman to accept his acknowledgments; but he must say, that no one had been seriously injured, or was likely to be, by what had fallen from the gentleman. The people of the South knew their rights, and knowing, dared maintain them both here and elsewhere, and maintain them as men.

The gentleman had said there was nothing in the Constitution of the United States which made slaves property, and therefore that he was not disposed to pay for them when taken for public use. Slaves were property under the Constitution whenever it subverted the purposes of the Government to consider them as such. If they wanted to levy taxes upon them, then they were property. This Congress might levy taxes upon slaves as property; they might collect them, and put the avails into the coffers of the Union, to defray the expenses of the Government. For that purpose slaves were property. If it was desired to satisfy an execution in favor of the Government against some



southern defaulter—some custom-house officer, some postmaster, or other defaulting agent of the Government—slaves were property enough for that purpose. Whenever it was for the advantage of the Government, their northern friends were ready enough to consider them as property; but when the Government was asked to give fair compensation for such property which had been appropriated to public use, their northern friends found that there was nothing in the Constitution to justify their being regarded as property. The Supreme Court of the United States, sitting at this hour in this capitol, had time and again adjudicated questions involving the right of property in slaves; and never had that court intimated that there was as much as a doubt as to the existence of that right. In the case of *Groves vs. Slaughter*, among other things, that court had clearly and distinctly recognised the right of property in slaves.

But the gentleman from New Hampshire found that there was nothing in the Constitution recognising the right of property in slaves, and therefore he was not going to give it by his vote. He (Mr. B.) would like to know of the gentleman if there was anything in the Constitution which pointed out a horse, or any other animal or thing, as property? Where was the clause of the Constitution which declared the right of property in a house, in a wooden clock, or any other product of the great state of New Hampshire, or the right of property in corn, in breadstuffs, or in any article of merchandise? The Constitution of the United States was profoundly silent on all these points, as it was upon the question of the right of property in slaves.

So far as the action of this Congress was concerned, the question had time and again been settled, that there was such a thing as the right of property in slaves. But it belonged to gentlemen of the school of politics to which the gentleman from New Hampshire belonged, within the last three or four years to discover that there was no such thing in existence. Why, he would like to know of the gentleman when and where it was that he had made the marvellous discovery, that there could be no right of property in anything unless that thing was specified in the Constitution of the United States.

The Supreme Court, in, he supposed, a thousand cases involving the principle that there was property in slaves, had affirmed, directly or indirectly, that right; Congress also, in repeated instances, had affirmed it. Gentlemen ought to admit some principle as settled. When we had precedent after precedent, both in our judicial decisions and in the action of Congress, all pointing one way, or (to use mere approved language) if the question had been "settled by the various departments of the Government," the principle must be regarded as established; and (we were told) we were to expect no veto from the President elect, and he should hope that no objections to it would come from the President's friends.

He repeated, he had not risen for the purpose of discussing the point whether this particular claim was valid, but to correct the improper, the erroneous doctrine which had been promulgated by the gentleman from New Hampshire—a doctrine which, in his judgment, had done more to poison the minds of the northern people, to lead them into error, and shake the foundations of society, than all other false doctrines combined.

## SLAVE TRADE IN THE DISTRICT OF COLUMBIA.

In the House of Representatives, January 31, 1849, on the relations of Congress to the District of Columbia, in connection with a bill to prohibit the introduction of slaves into the District of Columbia as merchandise,

Mr. BROWN said, he did not design, upon taking the floor at the present time, to enter into a discussion of the various questions which had engaged the attention of the House this morning; but as a member of the committee on the District of Columbia, he desired to say a word with reference to his own position with regard to the introduction of this bill. The bill was almost a literal transcript of what was the law of the state of Mississippi from the year 1837 down to a period within some three or four years past, with one material alteration, namely, a prohibition against any citizen going beyond the boundaries of the District and buying a slave for his own use within the District. The law of the state of Mississippi, to which he referred, was founded upon a provision of the constitution of that state which grew out of apprehensions (whether well founded or not) of servile insurrections in the minds of the framers of that constitution. The provision was at all events incorporated into the constitution, and the act in pursuance thereof, to which he had referred, was drawn by his own hand as a member of the Mississippi legislature. In his capacity as a member of the committee on the District of Columbia, he had pointed to that law as containing suitable provisions to be incorporated into the bill which they were to report. The law was acceptable to the committee; and, with the material alteration to which he had referred, it was copied and reported to the House.

A VOICE. The gentleman is mistaken about the restriction.

Mr. BROWN (continuing) said he was not mistaken. He had said that, by the restriction to which he objected, citizens of the District were not to go beyond the boundaries of the District, and purchase slaves for their own use within the District. There was, indeed, a provision that they might, by inheritance, marriage, or bequest, obtain a title to slaves without the District, and so bring them in; but there was no other provision of the bill by which a citizen of the District could acquire title to slaves in any of the states. He had opposed and objected to this restriction, in the committee, upon the ground that it was never petitioned for by the people. The immediate occasion and basis of the bill was the petition of the mayor and council of the city of Washington. And if he could be induced to vote for a bill of this kind at all, it would be on account of such petition. He did not know that, under any circumstances, it could command his vote; certainly it never could with this restriction.

A word in regard to his own position. He had always believed that, in his representative character upon that floor, he was called upon to represent the expressed will and wishes of the people of the District of Columbia, having, at the same time, due regard to the rights of the

people of the several states, and to the restrictions of the Constitution of the United States. If the people of the District of Columbia petitioned for any object which might be granted without violation of the Constitution, or infringement of the rights of other citizens of the United States, he was bound to support their petition; and it ought to be granted. He felt that he should no more claim for himself the right to represent the people of the District of Columbia, in accordance with the wishes of the people of the fourth congressional district of Mississippi, than that the gentleman from Ohio [Mr. Giddings] should claim to represent them in accordance with the wishes of his constituents. He was willing to meet gentlemen here on common ground, and claim no more for his particular section than he was willing to accord to every other section of the country. The District of Columbia was no gladiatorial region, where opposing parties were to meet in conflict. This was neutral ground, where the wishes of the people should be fairly represented, having respect always to the rights of others and to the Constitution. He did not believe that the strong party in Congress had any right to pass any law for the District, without respect to the wishes of the people of the District, and without reference to the Constitution and rights of the people outside of the District; but that in all this branch of their public charge, they should have an eye strictly to the Constitution, and to the rights of the whole people. Such was his policy, and would continue to be so long as he remained a representative on that floor. He should never look to the state of Mississippi for the sole rule of his conduct in this department of his duty. For, if gentlemen were to look to the wishes of their constituents in these cases, it would not be long before we should have laws for the District of Columbia framed in obedience to the wishes of the people of New England, or the great West, and having no regard to the wishes of the people here. He wanted no such thing.

In acting upon a petition from the people of this District, his first object was to inquire how far he might go, and still remain within the limits of the Constitution? and then how far he might go without infringing upon the deed of cession by which the District was acquired from the states of Maryland and Virginia? These limits being ascertained, he should be prepared to go for any law desired by the people of the District, which did not require these fixed limits to be transcended. If gentlemen from New England, New York, and elsewhere, were prepared to act upon this rule, he was prepared to go with them. He was glad that the gentleman from Ohio [Mr. Taylor] had introduced the authority of a late venerable representative from Massachusetts [Mr. John Quincy Adams], in support of the principle, that the people of the District of Columbia were not to be represented according to the views and wishes of the people residing elsewhere in the United States. If his own views did not happen to accord exactly with those of the people here petitioning, it was his duty to conform his views to theirs; and this was manifestly the only right rule upon which these people could be represented. He appealed, therefore, to his friends, the southern delegation, to do what was right upon this question, while he asked only the same thing of gentlemen from the North. He thought gentlemen on all sides might shape their conduct according to the rule he had laid down,

doing no injustice to the District, and giving no just ground of complaint to the states north or south.

Mr. McLANE interposed to ask a question; and (Mr. B. giving way for the purpose) he said he would ask the gentleman whether he went so far with his doctrine as to recognise the right on the part of the people of the District of Columbia to ask of Congress the enactment of a law abolishing slavery in the District?—whether he did not believe that such an act would be unconstitutional?—in other words, whether the gentleman's rule went further than to admit of petitions for objects within the federal power to grant, while he would exclude all others, as petitions which should neither be demanded on their part nor granted on ours, for the reason that they were incompatible with the federal powers of Congress?

Mr. BROWN replied, that he hardly thought the gentleman could have misunderstood him. He would say again, that the people of this District, like every other people, had the right to be represented (if they were represented at all) according to their own views and wishes, and not according to the views of people residing elsewhere in the United States. They had no right to ask, nor had Congress the right to grant, laws for their benefit which would outrage the rights of others, whether citizens of the state of Virginia, Maryland, or any other state. He should always expect every gentleman who desired to protect the rights of the people, whether citizens of Maryland, Virginia, or the District of Columbia, to vote against the abolition of slavery here; for such a policy would make of the District nothing but a receptacle for all the free negroes in the country. He could not go into the question of the constitutional power of Congress to abolish slavery here: it was in no way involved in the bill. But he would take occasion to say, he had never conceded the power; and if he had, there were abundant reasons without the Constitution to determine his vote against such a measure.

One word with reference to the complaint made as to gentlemen voting here contrary to their own convictions of right, because of the fear of their constituents. He knew not how it was with the gentleman from New York, but when such a charge was made against him, his reply was, that he was not afraid to give any vote which his judgment might approve. The apprehension of responsibility at home did not swerve him. He was sent here to take responsibility, and he would account himself unfaithful and unworthy of his trust, if he did not take responsibility on all proper occasions. Upon all questions involving the rights of the South and the southern institution of slavery, he should vote with the South. And if he had any fears on this subject, they were not for himself or his constituents, but rather for the North. If gentlemen desired it of him, he would now tell them, that he felt the necessity, on the part of the South, of standing together upon every question involving the right of property in slaves, the slave trade, and abolition in all its forms. He knew that they must stand together for defence: therefore, as the South voted, so he should vote, till the pressure from without should be withdrawn. The South acted together upon the principle of self-protection and self-preservation. They stood for protection against destruction and annihilation. He knew not the motive which prompted this outward pressure; he felt its existence and he knew that the South acted purely on the defensive; they merely warded off the blow

directed against their peace, their safety, their lives. Such were his motives for voting with the South. And he now said to all who were opposed to him or his country, withdraw your pressure; cease to agitate this question; let us alone; do whatsoever you think to be right without endangering us, and you will find that we, too, are ready to do right.

Mr. FICKLIN desired to inquire of the gentleman from Mississippi, before he took his seat, whether he had stated that the bill before the House was a transcript of a law of the state of Mississippi?

Mr. BROWN replied that he had so stated the fact. The law, however, had been repealed by the legislature of Mississippi some two or three years ago. The reason why it had been repealed, he supposed, was of no consequence there.

While upon this subject, he might say, that, although he had voted for the motion of the gentleman from Georgia, to lay the bill on the table, he did not fully approve of it. He was perfectly willing now, as he should be at any time hereafter, to see the motion of the gentleman from Ohio [Mr. Edwards] prevail. He was perfectly willing that the bill should be printed, examined, and discussed fully. He was not so much opposed to the motion of the gentleman from Georgia as he was opposed to the motion of the gentleman from Illinois [Mr. Wentworth]. The disposition thus manifested to force a bill of this character through the House upon three minutes' consideration, was most extraordinary. As to the question raised by the gentleman from South Carolina [Mr. Burt], he admitted there was force in it. How far Congress had the right to legislate upon any question, in any way involving the right of property in slaves, even in this District, was worthy of the gravest consideration. The question presented by the bill is not, whether Congress may destroy property in slaves (that would be abolition, and on such a proposition no southern man could hesitate), but the question is simply, whether Congress may do in this District, what almost all the slave states have done within their respective limits—prohibit the introduction of slaves as merchandise or for sale. And even this was not without its difficulties and embarrassments. He was not on that account for shrinking from it. The question was before us, and we must consider it. For himself he was ready to meet it, to act upon it as upon every other respectful application coming from those who had a right to make such application. The people of the District had the right to make this application. It was our duty to consider it; and he would go further, and say it was our duty to grant it, if we could do so without prejudice to the rights of others, and without transcending our constitutional powers. Whether in the end we vote for or against the bill, let us refer it, print it, and give it proper and respectful consideration.

Mr. B. trusted he had not been misunderstood; for it was known, that to a southern member, this was a delicate question. He had expressed his honest views—views which he desired to carry out in good faith. He did very well know, that if the South were let alone—if they were not positively ill-treated, the North might be assured they would come up and do what was right. They stood together now for their own preservation, and nothing less than unity in their councils could be expected of them in the present crisis. If individual members did not always vote exactly according to their views of right upon these questions, it was because of this known, and now universally acknowledged,

necessity of unity and concert among ourselves. When a sleepless and dangerous enemy stood at our doors, we felt the necessity of acting together. Let that enemy withdraw—let us out into the open sunshine, where we could look upon the same sun that you look upon—where the air, the land, the water, everything could be seen in common and enjoyed in common—and we should be ready to meet you as brethren, and legislate with you as brethren. But so long as you keep up this pressure, these endless, ceaseless, ruthless assaults upon us, we must stand together for defence. In this position we must regard you as our enemies, and we are yours.

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## NEW MEXICO AND CALIFORNIA.

In the House of Representatives, February 10, 1849,—On the proposition of Mr. PRESTON, of Virginia, to admit New Mexico and California as States; and in reply to Mr. HUNT on the general policy of the Administration; Mr. BROWN said:

Mr. CHAIRMAN: It is not my purpose to follow the line of discussion marked out by the gentleman who has just taken his seat. My chief object in taking the floor is to reply to remarks made some time since by the gentleman from New York [Mr. Hunt], in reference to the late presidential election and the general policy of the existing Administration. The question prominently before the committee is certainly one of most absorbing interest; but my reflections so far have brought my mind to no satisfactory conclusion in regard to it. I am not fully prepared to say in what manner I shall even dispose of my own vote. Since, however, the proposition to accord state governments to New Mexico and California has been presented under such imposing forms; since the eloquent gentleman from Virginia [Mr. Preston] has urged it with so much of zeal and ability; since my friend from Alabama [Mr. Hilliard] has entered the list of its advocates, and urged its favorable consideration with more than his accustomed intellectual power; since the frequent discussion in the other end of the capitol has attracted so large an amount of public attention; and above all, since it is almost certain that we shall be called upon, before the close of the present session, to vote upon some one, and perhaps all, of the several propositions submitted, and to be submitted, I will avail myself of the opportunity now presented to assume that position before the country which I desire to occupy.

Whether I can finally bring myself to vote for any proposition to admit these territories as states, I cannot now undertake to say. None of those submitted thus far meet my views in their details. The details, however, are matters of secondary importance. The great question to be determined is, "Shall we admit these territories as states at this session of Congress?" Upon this question, for the sake of harmony and the peace of the Union I am prepared to make very great and important sacrifices. To attain this end I am ready to give up everything but principle and honor; but, before I move from my present position, I

want to know whether our opponents are ready to meet us in a corresponding spirit. Are they ready to make corresponding sacrifices for the sake of peace, harmony, and brotherly union? I am prepared to go to that point where conflicting interests and opinions may meet, and adjust this dangerous issue upon terms honorable to both sides, and without any undue sacrifice by either party. That such a point exists, no one seriously questions. Shall we meet there, is the only point worth considering.

We of the South voted at the last session of Congress for more than one proposition which our judgments did not wholly approve. We did so in a spirit of concession and compromise. But in what spirit were we met? In a spirit of stern and obstinate resistance. Every tender of the olive branch was rudely, almost indignantly rejected. All our propositions were voted down as they were successively presented, by that party who claimed a right to undivided dominion over these territories. I never have, and never will assent to the justice of this claim; and hereafter I will vote to maintain the rights of the South in their broadest latitude, unless I shall plainly see, that by an honorable and manly surrender of a portion of these rights, peace may be secured, and the Union rescued from its present perilous condition. I love the Union, but the love I bear it is for its blessings, and not its curses. Let it fulfil the high purpose of its creation, and the people will preserve it at any and every sacrifice of blood or treasure, and nowhere will these sacrifices be more freely made than in the South. But divert it from this purpose, resolve it into a mighty engine of oppression, to be wielded by the strong and powerful for the subjugation of the weak and powerless, and you convert our love into hatred; and these sacrifices which we now freely offer for its preservation, we will then reserve for its destruction. The union of these states rests on a foundation solid and sacred, the affections of the people of all the states. Be careful how you tamper with that foundation, lest you destroy it, and thus destroy the Union itself. Let the Union dispense equal and exact justice to all, special favors to none, and not one murmur of complaint will ever come up here from the patriotic sons of the "Sunny South." We despise injustice of every kind. In the emphatic words of a distinguished chieftain, "We ask no favors, and shrink from no responsibility."

It has been charged that my political associates intend to postpone the settlement of this question, to the end that it may be to General Taylor a stream of consuming fire, which it may be impossible to circumvent, and which he cannot cross in safety. For myself, the unworthy imputation is emphatically disclaimed. I shall vote upon this, as upon all other questions, precisely as I would have done before the late presidential election—just as I should have done had General Cass been the successful candidate, or as though no presidential election had intervened. This, to my mind, is a question above all party considerations. It deeply involves the harmony and stability of the Union, and I should despise myself if I were capable of shaping my conduct, on such a question, with a view to partisan results. Upon such issues I shall vote without reference to party ties, and without stopping to inquire whether I am advancing or retarding the political fortunes of the President elect. And I may lay it down as a general rule, that whilst I will not travel out of my way to remove obstacles from the path of General Taylor—

if, indeed, there be any such in his way—I shall not regard it as compatible with my duty as a citizen, or dignity as a representative, to interpose such obstacles where none now exist.

Before dismissing the subject, allow me, Mr. Chairman, to congratulate the gentleman from Virginia [Mr. Preston], and, through him, his political associates here and elsewhere, that he and they are at last so near on the “Cass platform.” If the gentleman will move a very little to the right, he will find himself in exact juxtaposition with the late Democratic candidate for the presidency, on this question; that is, asserting that the people of the territories, under the general limitations and restrictions of the Federal Constitution, may rightfully settle the slavery question for themselves. The gentleman, at the last session of Congress, and throughout the canvass for President, was understood to oppose this doctrine.

Mr. PRESTON interposed. He had been misunderstood by the gentleman from Mississippi. Last year, and always and everywhere, he had advocated the doctrine and made the distinction which he had attempted to make day before yesterday. The distinction he drew was, between the territorial rights of a people, contemplated as the people of a territory, and the sovereign rights of a people after they have been created a state government.

Mr. BROWN. I so understood the gentleman, and have given him due credit for his ingenuity. But the distinction seems to me, when applied to the case in hand, a thing rather of form than substance. Here is a conquered people, possessing as yet no political rights under our laws and Constitution, because not yet admitted to the rights of citizenship; and what is worse, possessing no practical knowledge of the workings of our system of government, and knowing nothing of our institutions. The substantial question is, shall such a people give laws to our territories, and shape and mould their institutions for the present, and possibly for all after time? It is a matter of form whether they shall proceed to do this at once, under the general limitations and restrictions of the Constitution, or whether you shall hoist them into the Union as a State, with the avowed purpose, object, and aim, of giving them the power to do the same thing. Is there a member of this House who would ever have taken upon himself to lead into the Union a state of such huge dimensions as that proposed by my friend from Virginia—embracing, as it does, all of New Mexico and California—but that it seemed to present a feasible means of getting clear of this most dangerous and perplexing question? Hitherto it has been usual to introduce states with fixed metes and bounds—to know something of the people who were to govern them—to know at least that they were or intended to become citizens of the United States—to have a reasonable assurance that they understood something of our laws and appreciated our institutions. But here is a proposition to admit a state, extending from near the thirty-second to the forty-second degree of north latitude—almost six hundred miles on an air line, bounded on the one side by the Pacific Ocean, and having no fixed limits on the other. And this vast country, sparsely settled, with a foreign population knowing nothing of our laws, distrusting from education, the soundness of our political theories, and disliking our people from habit, is to be hoisted, in all its huge proportions and with this strange population, into our



Union upon terms of equality with the original states—and for what end? Disguise it as you will, it is that these people may have the power to exclude slavery from the territories now and for ever. Have they gone through any territorial probation? Is there any evidence that these people, strangers as they are, desire admission into the Union, or that they will now consent to come in, if you invite them? or must we bring them in *volens volens*? The gentleman's bill gives to every white male inhabitant over the age of twenty-one years the right to vote, whether Spaniard, Mexican, Swede, Turk, or what not. So he be but a white male inhabitant of the territory, and twenty-one years old, he is to vote, it matters not what may have drawn him there, or what his future intentions may be. If he be but an inhabitant, and white, and twenty-one years old, he is to vote in the formation of a constitution, by which your rights and mine, Mr. Chairman, and those of our constituents, are to be controlled through all after time. And this is the proposition of the gentleman who found such mighty fault with General Cass for saying the people of the territories, under the restrictions and limitations of the Federal Constitution, could do this same thing. I submit to my honorable friend, whether it would not be respectful, to say the least of it, towards his constituents and mine, to require these people, before they pass final judgment upon our rights, to make an intimation in some form that they intend to become citizens as well as inhabitants of the United States.

But, says the gentleman, there are some one hundred thousand to two hundred thousand American emigrants in that country. It must be a lively imagination that could multiply the few thousand gold hunters who have gone to California to such vast numbers. There may be some ten to twenty thousand Americans there—certainly not more than thirty thousand—mere adventurers, who will stay in the country if they find it profitable to dig or pick up gold. The emigrants whose rights are to be affected by this proceeding—the cotton, sugar, and tobacco-grower—have not yet started on their journey, and yet you are proposing to force the territory into the Union as a state, settle its institutions, and for ever exclude this better class of emigrants.

These are some of my reflections, Mr. Chairman, hastily thrown out in a discussion which I did not intend, at this time, to participate in. I do not say that I shall vote against the proposition of the gentleman from Virginia. It may be that I shall vote for it. I cannot part with the subject at this moment, however, without saying to my honorable friend, if it was wrong in General Cass to say the people of the territories, under the general limitations and restrictions of the Federal Constitution, might exclude slavery, it must be equally wrong in him to give these same people a factitious political character, to the end that they may thereby accomplish the same thing. The people, in the judgment of the gentleman, had not this power last summer; and what are they now that they were not then? They are the same people, with the same feelings, passions, and prejudices; with the same political powers—no more nor less. I may appeal to my honorable friend if it was quite just in him to hunt down General Cass for his opinions, and then, in effect, to put forth the same opinions himself.

But I must leave this subject, to pay my respects to a speech made by an honorable member from New York [Mr. Hunt] some time since.

That gentleman, in the outset of his remarks, declared with emphasis, that all the measures of the existing Administration had been triumphantly overthrown, and the President and his party friends signally rebuked at the late presidential election. So strong was this impression on the mind of the gentleman, that he took occasion to mention it two or three times in the course of his speech. Whether it was in truth altogether a strong impression on the gentleman's own mind, or whether it was that he thought so novel an historical fact needed repetition to imprint it on the mind of others, I do not know; but certain it is, the declaration was several times repeated, and each time with additional emphasis. It is my purpose, among other things, to investigate the truth of this declaration.

The gentleman says it is fortunate for the truth of history and the correct understanding of political issues, that deposed ministers and dismissed secretaries are not the most accredited historians of their own lives, times, and acts; and I take leave to add, that it is equally fortunate for the truth of history and the vindication of men and measures, that partisan leaders and political tricksters are not always the most accredited historians of their own lives, times, and tricks. Were the gentleman from New York to write a history of the late presidential canvass, he would induce the world to think that the election had turned upon such issues as the bank, the tariff, the independent treasury, and other questions which had hitherto divided the two great political parties. The gentleman has a way of proving his declaration that all these things were in issue, which is at once novel and unique. He says the Baltimore Convention tendered these issues. True, sir, most true. The Baltimore Convention did tender these issues; but did the Philadelphia Convention accept them? It requires two parties to make up an issue. The Democratic party, with an instinctive love of truth and justice peculiar to themselves, did tender all these issues; but will the gentleman pretend that the Whig party accepted them, or went to the country upon them? If so, when, where, and by whom was it done? Certainly not in Philadelphia. Certainly not here. Certainly it has not transpired that any one duly authorized to speak for the Whig party did, at any time or place anterior to the late presidential election, accept the issues tendered. On the contrary, we were everywhere told that the old issues were buried, and that we were before the country on other new and more important issues. And have these new and important issues so soon been forgotten? Can it be, that in six short weeks after the election is over, the distinguished gentleman does not even dare allude to them in a speech bearing evident marks of preparation? Must the defunct issues be so soon summoned from their sepulchres, and the new ones be sent to take their places? When the gentleman comes to write the history of his own life and times, he may perhaps enlighten the world as to the origin of that overruling political necessity which has induced this sudden abandonment of new issues—this longing after old ones. Summon the old issues, if you like. Call them from their tombs of martyrdom. But let me tell you, the new ones "will not down at your bidding."

Mr. HUNT interposed, but the reporter did not catch his remark.

Mr. BROWN. The gentleman says it was always understood that the Whigs were opposed to the independent treasury. But did they, as a party, say so in the last contest? That is the question. Did they give

the country distinctly to understand that this measure was in issue, and that General Taylor's success would be followed by the instant repeal of the independent treasury law? I undertake to say, no such authoritative declaration was ever made. On the contrary, the people were everywhere assured that the old party issues were withdrawn, or were permitted to sleep, to the end that the full measure of a nation's gratitude might be meted out to the successful general—the chieftain who had led our armies in triumph and glory through “an unnecessary, unconstitutional, unholy, wicked, and murderous war.”

But, says the gentleman, the tariff of 1846 was also overthrown in this general denunciation of popular fury. Indeed! And pray, sir, who put that measure at issue? We shall again be told, I suppose, that the Whigs were understood to be opposed to the tariff of 1846, and in favor of that of 1842. However this may be, Mr. Chairman, as a general party rule, it does not hold good in every instance; for I well recollect to have heard the ablest and most eloquent of the Whig orators in my part of the Union, declare their entire satisfaction with this measure. As a measure of revenue it seemed, they said, thus far, to have answered the purposes of its projectors; and so long as it continued to do so, they were satisfied to let it alone. But again, let me remind the gentleman that this measure was not in issue by any competent party authority. The President elect is not a party man, and is not going to lend himself to any party schemes, if we may believe his own emphatic declarations, repeated time and again, throughout the whole of the late presidential canvass. How dare the gentleman claim his election as a verdict for or against any party measure? Why, sir, to this day the gentleman cannot himself say what General Taylor is for or against.

There are other great measures of the Democratic party, such as vindicating the national honor and exacting a due and proper regard for our national rights. By a steady observance of these measures, this Administration has settled a dispute with England of near fifty years' standing, and has flogged Mexico into a decent respect for our national flag. All this, the gentleman says, has passed under general condemnation.

The President has repeatedly and earnestly recommended the reduction of the price of the public lands. The Secretary of the Treasury has urged the same great measure with zeal and ability. This, too, has been condemned. It will be news to my Democratic constituents who have been inveigled, by specious Whig promises adroitly put forth, into voting for General Taylor, that they thereby passed their verdict of condemnation upon this, to them, the most interesting of all the great political questions.

Not only have the people pronounced against all the measures of the Democratic party, but, in the gentleman's judgment, they have pronounced in favor of all the Whig measures. Let me ask my honorable friend, what financial scheme for the collection, safe-keeping, and disbursement of the public revenue is to take the place of the independent treasury?—or do I offend in asking the question? Must I assume that the “obsolete idea” is to be revived—that we are to have a national bank? I pause for a reply.

Mr. HUNT. The public money may be collected and safely disbursed, without the agency of either a bank or sub-treasury.

Mr. BROWN. How?

Mr. HUNT replied, that no difficulty had been found in collecting the revenues in the ordinary currency of the country, and making the disbursement without loss, by exercising the same judgment and discretion which governs prudent individuals in their own affairs. On the subject of a bank, he had only said there was no occasion for the President to revive that discussion at this time in his annual message.

Mr. BROWN. I accept the gentleman's answer. In the remarks to which I am replying he took the President seriously to task for discussing the bank question in his late annual message. He now says there was no necessity to revive that discussion at this time. Why not, pray? Is not a bank one of the measures revived in the late Whig victory? Why this chariness of your old friend? Must the bank sleep on in its deep, cold grave, whilst all Whigdom is redolent with joy at the resurrection of its kindred measures? Or are you afraid that the old Jackson men, who aided you in achieving your triumph, will raise the war-whoop if you exhibit the carcass of the "old monster?" I commend your prudence in not saying "bank" too soon to the Democratic supporters of General Taylor.

But what can the gentleman mean by the Government's collecting, safe-keeping, and disbursing its revenue without the agency of banks, in the same way that a prudent and discreet individual would do the same thing? Need I tell the gentleman, that whenever the Government collects and disburses its money like a discreet man of business, the sub-treasury is then in full operation? This is the sub-treasury in all its length and breadth. It simply proposes that the Government shall collect, keep, and disburse our money in the same way that a sensible and discreet business man would collect, keep, and disburse his money. After all, sir, the sub-treasury may not turn out such a raw-head-and-bloody-bones as my honorable friend supposes. I commend it to his attention as a thing worthy of his confidence, and eminently entitled to his support on the grounds just taken by himself.

A mighty cause of complaint is the "profligacy and corruption" of the Administration. These phrases are too often applied to the President of the United States. Coarse in themselves, worn threadbare by constant vulgar use, they are singularly out of place in the speech of a gentleman so remarkable for his courtesy as the gentleman from New York. Charges of "profligacy and corruption" are never made by one member against another, by a representative against a senator, or by one gentleman in private life against another similarly situated. We all know to what results such charges, if made in any of these cases, would certainly lead. Is it, then, in good taste thus to assail the President, simply because he is President? I will not say that the known fact, that such charges when made against the President involve no personal responsibility, encourages their repetition. But this I will say, the very fact of knowing that we may assault a man with impunity, should for ever induce us to speak to and of him in language free from insult. The President is, in an eminent degree, the custodian of the national honor; and whoever degrades the President, to some extent degrades the nation. And for this, if for no other reason, I would wish to see gentlemen more circumspect in their language, and more forbearing in their censure.

What does the gentleman mean by the profligacy of the President? If he means to say the President has made a profligate or wasteful use of the public money, I take issue with him. The public money has been used for the purposes for which it was appropriated by Congress. The gentleman knows very well that not one dollar can be drawn from the treasury but in pursuance of lawful appropriations; that the President is, in fact, further removed from the public money than the gentleman or myself. For though the world were at stake, not one dollar can he take from the national treasury until the members of this House first vote the appropriation. If there have been "profligate and wasteful appropriations," to the gentleman and his party belong the responsibility. It is well known that on that side of the House appropriations of every kind find a majority of their supporters. I do not say that these appropriations are profligate, least of all do I say they are corrupt. I say the President is not, and that the Whig party is, responsible for the voting of these appropriations.

Mr. BOYDEN (interposing, and the floor being yielded) said the President should be called upon to declare in what manner the money had been expended which was collected under contributions levied by his order in Mexico.

Mr. BROWN. There is no difficulty on that point. The money was expended in subsisting our brave troops in Mexico, and to my mind it was a wise, patriotic, and just use of it. I am not displeased, Mr. Chairman, that the gentleman from North Carolina has thought proper to introduce this topic. It gives me an opportunity to say a word in reference to it, which otherwise I may not have had. When the point was first presented as to the President's right to collect duties in the Mexican ports temporarily in the occupancy of American troops, the learned gentleman from Pennsylvania [Mr. C. J. Ingersoll] admitted the right to collect, but intimated his doubts as to the power to disburse the money thus collected. I thought then, as I do now, that the right was clear in both cases. If the American general had found a million of dollars in the custom-house in the captured city of Vera Cruz, no one would have questioned his right to take possession of it. It would not only have been his right as the conqueror, but it would have been his duty to have seized such treasure. If he could seize money already collected, might he not also seize such as was subsequently collected? Will it be seriously insisted that the American general would have discharged his duty to his country if he had permitted the Mexican authorities to go on collecting duties at Vera Cruz, after the city was in his military possession, and have stood by while the funds thus collected were quietly handed over, to be used in arming and subsisting the enemy's forces? Such a proceeding could not and would not have been justified. Should he then have closed the ports against our own and the commerce of neutrals, would not our merchants and those of friendly nations have had just cause of complaint against such a rigid use of military power? What, then, was his manifest duty? To admit the commerce of all countries upon terms at least as favorable as those imposed by Mexico, and see that the duties were faithfully kept from the hands of the enemy. True, he may have done this by allowing the Mexican collector to continue in performance of his duties, and establishing a sort of surveillance over him, to see that he faithfully accounted for the money collected.

It was much easier, however, and much more compatible with the relative position of the two powers, to dismiss the Mexican and appoint an American collector. This was done, and less could not have been done, short of allowing collections to go on for the use and benefit of the Mexican army.

Mr. BOYDEN again interrupted, to say that the President's contributions upon imports in Mexico were not levied upon the Mexicans, but upon the commerce of American citizens, when they arrived in those conquered ports. What right had the President to levy his contributions upon American citizens?

Mr. BROWN. The contributions were levied upon all commerce alike. Neither our citizens, nor the citizens and subjects of foreign friendly powers, had any just cause of complaint, since the American tariff of duties was less than Mexico herself had collected. I may not fully comprehend the gentleman. Do I understand him to insist that the President had no right to order the collection of duties in the Mexican ports captured by our arms?

Mr. BOYDEN. No, sir; but I do insist that, under the pretence of levying contributions upon the enemy, the President has no right to take the property of American citizens, and to convert it to the purposes of his will, without any authority of law whatever.

Mr. BROWN. The gentleman seems to be interposing a new point. I do not understand that the President ever directed the property of American citizens to be taken and converted to his own or the purposes of any one else; but I do understand that American merchants, by his order, entered the Mexican ports upon terms of equality with those of England, France, Spain, and other countries. And if an American merchant pays duties in New York for the support of his government, can it be a very great hardship if he does the same thing at Vera Cruz? Our merchants would not have gone into Mexican ports unless it was to their advantage to do so; and if they went, it was with the full expectation of paying duties to some one. It would, I think, be a most unworthy imputation upon an American merchant to say that he was more willing to pay a heavy duty to the Mexican Government than a light duty to his own.

Mr. BOYDEN. The gentleman has mistaken my position, or he understands only a part of it. I complain that the money was improperly taken by the President, and used without the authority of law. A tax was improperly levied upon the property of American citizens, under the name of levying contributions upon the enemy; and it was given out that the money collected under this pretence was expended in carrying on the war. But how did we know that? Does not the Constitution prescribe that all appropriations for carrying on war shall be made by Congress? How, then, could the President expend this money? He not only levied his contributions without authority, but he expended the money so collected in open violation of the Constitution, and without the slightest authority of law.

Mr. BROWN. I recognise the gentleman's right in its broadest latitude: when he finds he has a bad hold, to let go and take hold again; and if the gentleman shall want again to mend his hold, I will again give way. If I now fully comprehend the gentleman, the point to which he specially desires attention is, as to the constitutional power of the

President to direct the use of the money without an appropriation first made by Congress. Does the gentleman regard contributions of this character as money in the treasury, within the meaning of the Constitution? If so, he and I differ widely on that point. I regard it as property captured of the enemy, to be used, if need be, in conquering that enemy, and to be accounted for in no otherwise than as other captured property. Suppose General Scott had captured in the city of Vera Cruz a thousand barrels of flour and fifty thousand cartridges: could he not have used these articles in prosecuting the war without the special leave of Congress? Suppose his soldiers had wanted bread—suppose, in the midst of the action, his cartridges had given out: must he say to the hungry soldier, You shall not eat, Congress has not consented that you should consume this captured bread, and I have no other? or must he cease firing in the midst of the action, because he cannot shoot a captured Mexican cartridge until Congress has given its consent that it may be thus used? Gentlemen smile, and well they may, for nothing can appear more ridiculous, unless it be the proposition gravely put forth by the gentleman from North Carolina, that if General Scott had been without bread, without transports, and without munitions of war, he could not purchase them with this Mexican money in his hands until Congress had first appropriated it. The contribution was levied as a means of distressing the enemy; and, in my judgment, the levy was right. It was used, when collected, in subsisting our army; and there could have been no better disposition made of it. I am satisfied with the whole affair, and I make no doubt the country is satisfied.

The gentleman from North Carolina has led me off from the points I was discussing. I was about to show, when the gentleman interposed, that my friend from New York was wholly mistaken in the assumption that the people, at the late presidential election, had condemned the independent treasury, the revenue tariff of 1846, and other kindred Democratic measures. Let us take the independent treasury by way of illustration: the gentleman says it was condemned in the election of General Taylor. I pass by the point that General Taylor, so far as the world knows, is as much for as against this measure; and I give the gentleman the full benefit of his claim, that all the votes polled for the General have pronounced against the independent treasury—and then how stands the case? General Cass was known to be in favor of this measure. Mr. Van Buren claims to have been its father; and however he may have strangled other of his political offspring, he has ever shown an abiding parental affection for this. Now, it so turns out that the two friends of the measure have, together, polled a popular majority of one hundred and fifty-two thousand votes over General Taylor. And, sir, if it be true, as has been asserted by my honorable friend, that this great measure was an issue, and that the people voted in reference to it, then has it triumphed, and it now stands before the world endorsed by the approving voice of a popular majority of more than one hundred and fifty thousand free American electors. And what I say of this measure is equally true of all the others enumerated by the honorable gentleman.

Mr. HUNT inquired if the gentleman intended to claim the vote for Van Buren and Adams as part of the Democratic vote? If he chose to figure out a majority in that way, it was not for him to interfere.

**Mr. BROWN.** I claim them on the gentleman's own assumption that the independent treasury, the revenue tariff, and other Democratic measures were in issue, and that the late presidential election had been conducted in reference to those issues. This being the case, I maintain that the friends of these measures have polled the largest popular vote by one hundred and fifty thousand, and that the measures are therefore triumphant before the people, and have only been defeated in the electoral college by a division among their friends.

Just here the gentleman would, I have no doubt, be glad to interpose the Free-soil issue, and I might justly deny his right to do so, since he made a speech closing seven minutes before the expiration of his allotted hour, and wholly neglected to mention the question of Free-soil. The gentleman found time to mention almost every conceivable question that *was not* in issue, and closed his speech, with seven minutes of time left, without alluding, in the smallest degree, to the only question that *was* in issue—I mean the question of Free-soil. Why was this? Has it been found difficult to unite the Whigs north and south on this issue? After running General Taylor at the North as a better Free-soil man than even Van Buren himself, and at the South as the very prince of slave-holders; after obtaining the anti-war vote of the North by one story, and the votes of the war-party at the South by another story; after traversing the republic from north to south, representing General Taylor as being "all things to all men," thus obtaining for him thousands of Democratic votes, it is very convenient to forget the real points of the canvass, and claim a victory on other points not introduced, and never discussed before the people.

May I ask the gentleman whether he did not himself tell the people in his district that General Taylor would approve of the Wilmot proviso?

**Mr. HUNT.** I said I had no doubt of it.

**Mr. BROWN.** Now, Mr. Chairman, if I should ask you or any other southern representative what you told your constituents, I should be assured that you told them General Taylor never would approve the proviso.

**Mr. HUNT** interposed, to say he would like to know what the gentleman from Mississippi told the people on that subject.

**Mr. BROWN.** I told them General Cass would never approve of the Wilmot proviso, and it was my opinion that General Taylor would.

Now, let me ask the gentleman whether he did not assure the people of New York that we should have a Free-soil administration if General Taylor was elected?

**Mr. HUNT.** We expressed our willingness to leave that question to the representatives of the people.

**Mr. BROWN.** And you, Mr. Chairman, and your southern colleagues, told your constituents that General Taylor would stand by the South on that question.

What I maintain is, that you have no right, after obtaining a victory by such means as were employed in the late presidential election, to come into this House, in six short weeks after closing the drama, and claim a victory on points notoriously not in issue, and omit all mention of the great point on which the election notoriously turned, north, south, east and west. I say again, that on this slavery question, you made General Taylor all things to all men; and it has been by such means



that your boasted victory has been won. And now, sir, let me ask the gentleman from New York, if I was not right in the beginning, when I said it was fortunate for the truth of history, and for the correct instruction of mankind, that political tricksters were not the most accredited historians of their own lives, times, and tricks?

A word in conclusion, Mr. Chairman, as to what the people have *not* decided in the late presidential race. Rely upon it, sir, they have not decided in favor of Whig measures—they have not decided against Democratic measures. Thousands and tens of thousands of voters in the North have been brought to General Taylor's support on the Free-soil issue. Other thousands of honest, upright Democrats have voted for him as a no-party man. Whilst, by the glare of his military fame, he has carried captive the enthusiastic and ardent youth of the country. You and I, Mr. Chairman, know very well what means were employed in the South to commend the General to Democratic voters: how General Cass was denounced as an Abolitionist—a political weathercock—a man of no fixed principles—a very political Judas, standing ready to betray the South with a kiss: how General Taylor was set down as the exact counterpart of all this—a patriot, with nothing to serve but his country—no party ties to bind him—no party wrongs to vindicate—no fixed political prejudices to gratify—a man like Washington, who had filled the measure of his country's glory, and was best deserving his country's highest honors. Banks, tariffs, distributions, were all repudiated—party lines were wiped out—a political millennium was at hand—General Taylor would scorn all party rules, and be the president alone of a great, happy, united nation of brothers—and above all things, his warm southern affections would bind him to the South and to southern institutions as with hooks of steel. It was by means like these you carried to his support thousands of Democratic voters. Whether all of these, or any considerable portion of them, will continue to follow his political fortunes, remains to be seen, and must, I think, depend on circumstances.

As a Democrat, I could wish General Taylor no worse fortune than to follow the counsels of his friend from New York. If he undertakes to uproot all the wise measures of the Democratic party, and to substitute Whig follies in their place, I take it for granted his Democratic supporters will abandon him; and this done, your boasted triumph will turn out a barren victory. The gentleman from New York seems to have his misgivings, for he dare not go so far as to commit his party for a bank, though he has no doubt, I suppose, it ought and will be established.

The people are now, have been, and always will be, in favor of Democratic measures, because these measures proclaim equality among men—not social, but political equality; not equality in mental or physical proportions, but equality in the possession and enjoyment of every right under the laws and Constitution. Democracy proclaims no moral, social, intellectual, or religious equality. In all these we admit that one man rises above another as do the stars in the firmament rise above the clouds of the valley. But our code recognises no political distinctions among men. Equal and exact justice to all, special privileges to none, is our motto. It is because in practice the Whig leaders repudiate this doctrine, that the masses always have and always will repudiate the Whig

leaders. What is your doctrine of protection but a cunningly-devised scheme to build up a privileged order in the country—to grant immunities and political rights to the favored few, which must of necessity be denied to the toiling millions? What your banking system but a system to plunder the many for the benefit of the few? And so of all your measures, of all your policy. What right has the manufacturer to demand the passage of laws for his special protection? And how dare you, in this land of equal laws, sanction such demands? Shall the banker have laws to legalize his frauds? Shall he be allowed to loan his credit at usury, whilst the honest laborer may only take lawful interest for his hard-earned dollars? Your whole system is a system of favoritism. Your motto has always been, Let the government take care of the rich, and the rich will take care of the poor. Well may Whiggery rejoice in this the hour of its triumph, for a day of reckoning will come. Let Democracy be of good cheer, for the day will be when the people shall winnow the harvest and separate the false from the good seed. In that day Democracy will be stored in their heart of hearts, but Whiggery will be scattered as chaff before the winds.

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## LOUIS KOSSUTH.

SPEECH IN THE HOUSE OF REPRESENTATIVES, JANUARY 2, 1850, ON THE  
RECEPTION OF LOUIS KOSSUTH.

I WILL change the resolution so that it will read in this manner:—

Be it understood, that the House of Representatives declines at this time to express any opinion as to whether this government will or will not be indifferent to the doctrines of Kossuth.

I offer this amendment in good faith. When, a little more than twelve months ago, I voted to send a national ship to bear this distinguished man to our shores, I did it, sir, that he might come here in the character of an emigrant. I never dreamed—as I am sure no member of the last Congress ever dreamed—that he was coming here as a propagandist of new doctrines. I appeal to every member of this Congress, who was a member of the last House of Representatives, if any member supposed he was coming here upon any such mission? The first we hear of his intentions was in one of his English speeches—I think in his Southampton speech—when for the first time he made it known that he was coming to procure the intervention of this government in the struggles that were going on in the Old World. I do not desire that our action here, either in inviting this distinguished man to this country, or inviting him to come to take a seat within the bar of this House, shall be construed into any expression of opinion upon the subject of his doctrine of intervention. And why? I can very readily imagine that in the progress of human events a case may arise in which it may become important for this government to interfere. No such case has, in my judgment, arisen yet. But I would not, by saying that we never would interfere, cut ourselves off from the possibility of doing so if a case should arise. So much has been said upon this subject, not only by that

distinguished man himself, but by his friends in Congress and out of it, that the inference may be drawn that we either intend to endorse his doctrines upon the one side, or that we do not upon the other, that, in my judgment, it is imperative upon us to say whether, in our action here, we do intend to express a judgment pro or con. Surely this cannot wound the sentiment of the distinguished Governor of Hungary. But whether it does or does not, we are here the representatives of the American people, not responsible to Kossuth, but to the people of this country—responsible for the exercise of an important trust, and the manner in which we shall exercise it will have an important bearing upon the present and future peace and prosperity of the country. I have done nothing, and I shall do nothing captiously. I am willing to do all proper honors to this distinguished man, but I am not prepared to show him such honors as never have been shown to any living man. If it is the will of his friends to vote him an invitation within the bar of this House, when we have sufficiently discussed the question to show to the American people that we do not intend to endorse his doctrine, then I am willing to withdraw opposition and invite him in. But you cannot separate this distinguished man from the great principles he avows. What does he tell you every day? He says, I am not here to be complimented. I am here to procure the recognition of a great national principle. And this is the shield which he bears between himself and the American people, from day to day. No man, I undertake to say, can approach him except through this shield. You must endorse his doctrines, or he seeks no intercourse with you. I am for saying, in the language of that amendment, that we neither endorse nor refuse to enforce his doctrines at this time, reserving any such question until a proper case shall arise.

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## THE SLAVE QUESTION.

In the House of Representatives, January 30, 1850, on the subject of Slavery, and on the action of the Administration in relation to California and New Mexico, Mr. Brown said:—

GENTLEMEN say they deprecate discussion on the subject of slavery. My judgment approves it. We have gone too far to recede without an adjustment of our difficulties. Better far that this agitation should never have commenced. But when wrong has been perpetrated on one side and resented on the other, an adjustment in some form is indispensable. It is better so than to leave the thorn of discord thus planted, to rankle and fester, and finally to produce a never-healing sore. We need attempt no such useless task as that of disguising from ourselves, our constituents, and in truth the world at large, that ill blood has been engendered, that we are losing our mutual attachment, that we are daily becoming more and more estranged, that the fibres of the great cord which unites us as one people are giving way, and that we are fast verging to ultimate and final disruption. I hold no communion with the spurious patriotism which closes its eyes to the dangers which visit us,

and with a loud voice, sing hosannas to the Union; such patriotism will not save the Union, it is destructive of the Union. Open wide your eyes and look these dangers full in the face, and with strong arms and stout hearts assault them, vanquish them, and on the field of your triumph erect an altar sacred to the cause of liberty, and on that altar offer as a willing sacrifice this accursed demon of discord. Do this, and we are safe; refuse, and these dangers will thicken, these misty elements will grow darker and blacker as days roll on. The storm which now lingers will burst, and the genius of dissolution will preside where the Union now is.

I am for discussion, for an interchange of sentiments. Let there be no wrangling about small grievances, but with an elevated patriotism—a patriotism high as our noble mountains, and broad as the Union itself—let us come to the consideration of the difficulties and dangers which beset us.

In all matters of dispute it is important to consider who committed the first wrong; until this is done, no satisfactory basis of an adjustment can be established.

The Union is divided in sentiment upon a great question, by a geographical line. The North is opposed to slavery, and the South is in favor of it. The North is for abolishing it, the South is for maintaining it. The North is for confining it within its present limits, where they fancy it will languish, and languishing, will die. The South is for leaving it unrestrained to go wherever (within our limits) it may be invited by soil, climate, and population. These issues and their necessary incidents have brought the two ends of the Union into their present perilous position—a position from which one or the other must recede, or a conflict, dangerous to liberty and fatal to the Union, will certainly ensue.

Who is at fault, or rather who was first in fault in this fraternal quarrel? We were the owners of slaves; we bought them from your fathers. We never sought to make slaveholders of you, nor to force slavery upon you. When you emancipated the remnant of your slaves, we did not interpose. Content to enjoy the fruits of our industry at home, within our own limits, we never sought to intrude upon your domestic quiet. Not so with you. For twenty years or more, you have not ceased to disturb our peace. We have appealed in vain to your forbearance. Not only have you disregarded these appeals, but every appeal has been followed by some new act of outrage and aggression. We have in vain pointed to our domicils, and begged that you would respect the feelings of their inmates. You have threatened them with conflagration. When we have pointed to our wives and our sleeping infants, and in their names besought your forbearance, you have spurned our entreaties and mocked the fears of these sacred pledges of our love. Long years of outrage upon our feelings and disregard of our rights have awakened in every southern heart a feeling of stern resistance. Think what you will, say what you will, perpetrate again and again if you will, these acts of lawless tyranny; the day and the hour is at hand when every southern son will rise in rebellion, when every tongue will say, Give us justice or give us death.

I repeat, we have never sought to disturb your quiet. We have forbore to retaliate your wrongs. Content to await a returning sense of

justice, we have submitted. That sense of justice, we fear, never will return, and submission is no longer a virtue. We owe it to you, to ourselves, to our common country, to the friends of freedom throughout the world, to warn you that we intend to submit no longer.

Gentlemen tell us they do not believe the South is in earnest. They believe we will still submit. Let me warn them to put away that delusion. It is fatal to the cause of peace. If the North embrace it the Union is gone. It is treason to encourage a hope of submission. Tell the truth, speak out boldly, go home and tell your people the issue is made up; they must now choose between non-interference with southern rights on the one side, and a dissolution of the Union on the other. Tell them the South asks nothing from their bounty, but only asks their forbearance.

The specious arguments by which you cover up your unauthorized attempts to drive us from the territories may deceive the unwary, but an enlightened public sentiment will not fail to detect its fallacy, and posterity will award you the credit of destroying the Union in a lawless effort to seize the spoils of a victory won by other hearts and hands than yours. Territory now free must remain free, say you. Who gave you the right to speak thus oracularly? Is this an acquisition of your own, or is it a thing obtained by the joint effort of us all? I have been told that the United States acquired the territory from Mexico, and that the Congress, speaking for the United States, must dispose of it. Technically speaking, the United States did make the acquisition; but what is the United States? a mere agent for the states, holding for them certain political powers in trust, to be exercised for their mutual benefit, and among these is the power to declare war and make peace. In the exercise of these powers the territory was acquired, and for whom? Not certainly for the agent, but for the principal. Not for the United States, but the states.

Who fought the battles, who won the victories which resulted in the acquisition? The people of the United States? Certainly not. There is no such thing as the people of the United States. They can perform no act—have in fact no political existence. Do the people of the United States elect this Congress? No; we are elected by states—most of us by districts in states. The states elect senators, and the President is himself elected by state electoral colleges, and not by the people of the United States. There is no such political body as the people of the United States; they can do nothing, have done nothing, have in fact no existence. When the war with Mexico began, on whom did the President call? Not, certainly, on the people of the United States, but on the people of the states by states, and by states they responded, by states they made their contributions to the grand army; and whatever was acquired, was of necessity acquired for the states, each having an equal interest; and the United States, as agent, trustee, or general repository of the common fund, is bound to do equal and exact justice to all the parties interested.

The army was created and supported by thirty sovereignties allied together. These sovereignties acted through a common head for the common defence and general welfare of all. But it does not follow that such head may rightfully appropriate the award of the conflict to fifteen of the allies, leaving nothing to the remaining fifteen. Sovereigns are

equal; there is no such thing as great or small sovereigns, or, to speak more correctly, sovereigns of great and small degree. They are equals, except when by conventional agreement that equality is destroyed. No such agreement has been made between the sovereigns composing our confederacy. Hence, Delaware is equal to New York, and the fifteen southern states are equal to the fifteen northern states. It follows that the fifteen sovereignties of the North cannot exclude the fifteen sovereignties of the South from an equal participation in, and control over, the joint acquisition or property of all. Nor can the common agent, the United States, hearken to the voice of the fifteen northern in preference to those of the fifteen southern allies. So long as one of the sovereigns in alliance protests against a common disposition of what belongs to all and to each one in an equal degree, no disposition can be rightfully made. The strong may take by force from the weak, but in such case power gives the right. The North may take from the South in this way, unless perchance it should turn out in the course of the conflict that the South is the stronger party, in which case it would be our right to take from you.

Without pursuing this course of reasoning, unprofitable as I feel it must be, I come at once to the conclusion, that we of Mississippi have the same right to go into the territories with our slave property as you of New York have to go there with your personal estate of whatever kind. And if you deny us this right, we will resist your authority, and to the last extremity. You affect to think us not in earnest in this declaration. Look at the attitude of the South; hear her voice as it comes up from her bench, her bar, her legislative halls, and, above all, from her people. Sir, there is not a hamlet in the South from which you will not hear the voice of stern resistance to your lawless mandate. Our men will write it on their shields, our women will teach little children to lip it with their earliest breath. I invoke your forbearance on this question. Ask yourselves if it is right to exasperate eight millions of people upon an abstraction; a matter to us of substance and of life, but to you the merest shadow of an abstraction. Is it likely, let me ask, that the Union can survive the shock which must ensue if you drive eight millions of people to madness and desperation? Look, sir, to the position of Virginia, Georgia, Alabama, Mississippi, and the glorious old state of South Carolina; listen to the warning voice of these, and all the Southern States, as they come to us upon every breeze that sweeps from the South, and tell me if we are not sporting above a volcano. Oh! gentlemen, pause, I beseech you, in this mad career. The South cannot, will not, DARE not submit to your demand. The consequences to her are terrible beyond description; to you forbearance would be a virtue—virtue adorned with love, truth, justice, and patriotism. To some men I can make no appeal. I appeal not to the gentleman from Ohio. He, like Peter the Hermit, feels himself under some religious obligation to lead on this crusade. I make no appeal to the putative father of the Wilmot proviso; like Ephraim, he is joined to his idols—I will let him alone. But to sound men, to patriotic and just men, I do make a solemn appeal that they array themselves on the side of the Constitution, and save the Union. When the fatal step is taken it will be too late to repent the folly of this hour. When the deed is done, and the fatal consequences have fallen upon us, it will be vain,

idle, worse than folly to deprecate the evil councils which now prevail. Now, now is the time for good men to do their duty. Let those who desire to save the Constitution and the Union come out from among the wicked and array themselves on the side of justice. And here in this hall, erected by our fathers and dedicated to liberty and law, we will make new vows, enter into new covenants to stand together and fight the demon of discord until death shall summon us to another and better world.

You think that slavery is a great evil. Very well, think so; but keep your thoughts to yourselves. If it be an evil, it is our evil; if it be a curse, it is our curse. We are not seeking to force it upon you; we intend to keep it ourselves. If you do not wish to come in contact with this crying evil, stay where you are, it will never pursue you.

For myself, I regard slavery as a great moral, social, political, and religious blessing—a blessing to the slave, and a blessing to the master. This is my opinion. I do not seek to propagate it. It does not concern me whether you think so or not. I have seen more of slavery than you, know more about it; and my opinions are, I think, worth more than yours. Slavery, African slavery, was, as I religiously believe, planted in this country through the providence of God; and he, in his own good time, will take it away. Civilization dawned in Africa. The Christian religion was preached to the African race before its votaries carried it to other lands. Africa had the glad tidings of the Saviour long before his divine mission was revealed to us. And where is she now? Centuries have passed away, and all traces of Christianity, every vestige of civilization, have departed from that degraded and benighted land—a race of cannibals, roasting, eating men as we do swine and cattle. Resisting with fire and sword all efforts of Christian ministers to lift them from the deep degradation, they perseveringly worship idols and graven images, and run continually after false gods. Look at the condition of this people, and contrast it with the worst condition of the same race in this country, and tell me if the eye of fancy, in its utmost stretch, can measure the elevation at which the Southern slave stands above the African in his native jungle? And yet philanthropy, double distilled, extra refined philanthropy, bewails in piteous accents the fallen condition of the poor slave. The negro race in the South have been civilized; many of them evangelized. Some are pure Christians; all have been improved in their moral, social, and religious condition. And who shall undertake to say it was not within the providence of their Creator to transplant them to our soil for wise, beneficent, and holy purposes?

It is no part of my purpose to discuss this proposition. The subject, in this view of it, belongs rather to the pulpit than to the halls of legislation.

It may seem to those not familiar with the state of public sentiment North and South, and the dangerous issues to which it is conducting us, out of time and out of place for us to discuss the value of the Union. I am not afraid of the consequences of such a discussion. It is a discussion not to be coveted, but one which the times and tempers of men have forced upon us. It is useless to deny that the Union is in danger. To discuss its value is to ascertain its worth. When we shall have done this, we can better decide how great a sacrifice we can afford to make to secure its perpetuity.

We of the South have ever been the fast friends of the Union. We have been so from an earnest attachment to its founders, and from a feeling of elevated patriotism, a patriotism which rises above all grovelling thoughts, and entwines itself about our country, and our whole country. We have made, and are now making day by day, greater sacrifices to uphold and maintain the Union in all its purity and dignity, than all the other parts of the country. Drop for a moment the sacrifice of feeling; forget the galling insults you are habitually heaping upon us, and let us look to other sacrifices. We export annually, in rice, cotton, and tobacco, the peculiar products of our soil, more than seventy-five millions of dollars in value. Your whole national exports do but a little exceed one hundred and forty millions of dollars. These articles of southern export are the support of your immense carrying trade, and of all your flourishing and profitable commerce; and these do not include the sugar of Louisiana, Texas, and Florida, nor do I estimate the cotton, rice, and tobacco consumed in the United States. If all these were embraced, our exports could not fall short of one hundred and twenty millions of dollars. I need not add, that as a separate, independent confederacy we should have the heaviest agricultural export of any people on the face of the earth; and that our wealth would in a short time be commensurate with our immense exports, no reasonable man can doubt. In the Union, our exports become the common trading fund of the nation, and the profits go into the general coffers. We know all this; and more, we know how much we contribute to the support of the Government, and we know too how little we get back. It gives me no pleasure to discuss questions like this, but a solemn duty I will not forego, from any mawkish, sentimental devotion to the Union. It is right that we fully understand one another. You think the South is not in earnest. Now, this opinion is based upon one of two hypotheses, either that we are too much devoted to the Union to run the hazard of its dissolution by a manly vindication of our rights; or else that we are afraid to encounter the perils of a dissolution. That we have loved the Union is most true. That our affections entwine themselves about it, and are reluctant to give it up, is also true. But our affection is no ordinary plant. Nourish it, and it will grow in the poorest soil. Neglect it, or trample upon it, and it will perish in the richest fields. I will not recount the story of our wrongs. I but ask you, can such wrongs ever be the handmaids of love, of that mutual and earnest, devoted love, which stood godfather when the infant Union was baptized, and without whose fostering care it cannot, will not, must not survive? Throw an impartial eye over the history of the last twenty years, and answer me if there is anything there which challenges our devotion? Who does not know that time after time we have turned away in sorrow from your oppressions, and yet have come back clinging to the Union; and proclaiming that "with all her faults we loved her still." And you expect us to do so now again and again; you expect us to return, and, on bended knees, crave your forbearance. No, you do not; you cannot think so meanly of us. There is nothing in our past history which justifies the conclusion that we will thus abase ourselves. You know how much a high-toned people ought to bear; and you know full well that we have borne to the last extremity. You know that we ought not to submit any longer. There is not a man of lofty soul among you all, who in his secret heart does not feel that we ought



not to submit. If you fancy that our devotion to the Union will keep us in the Union, you are mistaken. Our love for the Union ceases with the justice of the Union. We cannot love oppression, nor hug tyranny to our bosoms.

Have we any reason to *fear* a dissolution of the Union? Look at the question dispassionately, and answer to yourselves the important inquiry, Can anything be expected from the fears of the southern people? Do not deceive yourselves—look at things as they really are. For myself, I can say with a clear conscience, we do not fear it; we are not appalled at the prospect before us; we deprecate disunion, but we do not fear it; we know our position too well for that. Whilst you have been heaping outrage upon outrage, adding insult to insult, our people have been calmly calculating the value of the Union. The question has been considered in all its bearings, and our minds are made up. The point has been designated beyond which we will not submit. We will not, because submission beyond that point involves consequences to us more terrible than disunion. It involves the fearful consequences of sectional degradation. We have not been slow in manifesting our devotion to the Union. In all our national conflicts we have obeyed the dictates of duty, the behests of patriotism. Our money has gone freely. The lives of our people have been freely given up. Their blood has washed many a blot from the national escutcheon. We have loved the Union, and we love it yet; but not for this, or a thousand such Unions, will we suffer dishonor at your hands.

I tell you candidly, we have calculated the value of the Union. Your injustice has driven us to it. Your oppression justifies me to-day in discussing the value of the Union, and I do so freely and fearlessly. Your press, your people, and your pulpit, may denounce this as treason; be it so. You may sing hosannas to the Union—it is well. British lords called it treason in our fathers when they resisted British tyranny. British orators were eloquent in their eulogiums on the British crown. Our fathers felt the oppression, they saw the hand that aimed the blow, and they resolved to resist. The result is before the world. We will resist, and trust to God and our own stout hearts for the consequences.

The South afraid of dissolving the Union?—why should we fear? What is there to alarm us or awaken our apprehensions? Are we not able to maintain ourselves? Shall eight millions of freemen, with more than one hundred millions of annual exports, fear to take their position among the nations of the earth? With our cotton, sugar, rice, and tobacco, products of a southern soil, yielding us annually more than a hundred millions of dollars, need we fear the frowns of the world? You tell us all the world is against us on the slavery question. We know more of this than you; fanaticism in the Old World, like fanaticism at home, assails our domestic relations, but we know how much British commerce and British labor depend for subsistence on our cotton, to feel at all startled by your threats of British power. Massachusetts looms will yield a smaller profit, and British looms will stop when you stop the supply of southern cotton. When the looms stop, labor will stop, ships will stop, commerce will stop, bread will stop. Build yourselves no castles in the air. Picture to your minds no such halcyon visions as that Great Britain will meddle with our slaves. She made an experiment in the West Indies in freeing negroes. It cost her one hundred millions

of pounds sterling, and crippled her commerce to more than three times that amount, and now her emancipated blacks are relapsing into a state of barbarism. By the united verdict of every British statesman the experiment was a signal failure, injurious to the negro and detrimental to the kingdom. England will not interfere with southern slaves. Our cotton bags are our bonds of peace.

Have we anything to fear from you in the event of dissolution? A little gasconade, and sometimes a threat or two, altogether out of place on so grave an issue as this, are resorted to on your part. As to there being any conflict of arms growing out of a dissolution, I have not thought it at all probable. You complain of your association with slaves in the Union. We propose to take them out of the Union—to dissolve the unpleasant association. Will you seek a battle-field to renew, amid blood and carnage, this loathsome association? I take it for granted that you will not. But if you should, we point you to the record of the past, and warn you, by its blood-stained pages, that we shall be ready to meet you. When you leave your homes in New England, or in the great West, on this mission of love—this crusade against the South; when you come to take slavery to your bosoms, and to subdue eight millions of southern people, I warn you to make all things ready. Kiss your wives, bid your children a long farewell, make peace with your God; for I warn you that you may never return.

I repeat, we deprecate disunion. Devoted to the Constitution—reverencing the Union—holding in sacred remembrance the names, the deeds, and the glories of our common and illustrious ancestry—there is no ordinary ill to which we would not bow sooner than dissolve the political association of these states. If there was any point short of absolute ruin to ourselves and desolation to our country, at which these aggressive measures would certainly stop, we would say at once, go to that point and give us peace. But we know full well, that when all is obtained that you now ask, the cormorant appetite for power and plunder will not be satisfied. The tiger may be driven from his prey, but when once he dips his tongue in blood, he will not relinquish his victim without a struggle.

I warn gentlemen, if they persist in their present course of policy, that the sin of disunion is on their heads—not ours. If a man assaults me, and I strike in self-defence, I am no violator of the public peace. If one attacks me with such fury as to jeopardize my life, and I slay him in the conflict, I am no murderer. If you attempt to force upon us sectional desolation and—what to us is infinitely worse—sectional degradation, we will resist you; and if in the conflict of resistance the Union is dissolved, we are not responsible. If any man charges me with harrowing sentiments of disunion, he is greatly mistaken. If he says that I prefer disunion to sectional and social degradation, he does me no more than justice.

Does any man desire to know at what time and for what cause I would dissolve the Union, I will tell him: At the first moment after you consummate your first act of aggression upon slave property, I would declare the Union dissolved; and for this reason: such an act, perpetrated after the warning we have given you, would evince a settled purpose to interpose your authority in the management of our domestic affairs, thus degrading us from our rightful position as equals to a state of depend-

ence and subordination. Do not mistake me ; I do not say that such an act would, *per se*, justify disunion ; I do not say that our exclusion from the territories would alone justify it ; I do not say that the destruction of the slave trade in the District of Columbia, nor even its abolition here, nor yet the prohibition of the slave trade among the states, would justify it. It may be, that not one, nor two, nor all of these combined would justify disunion. These are but the initiative steps—they lead you on to the mastery over us, and you shall not take these steps. The man must have studied the history of our revolt against the power of Britain to but little purpose who supposes that the throwing a few boxes of tea into the water in Boston harbor produced, or had any material influence in producing, the mighty conflict of arms which ensued. Does any man suppose that the stamp act and its kindred measures produced the revolution ? They produced a solemn conviction on the minds of our fathers that Britain was determined to oppress and degrade the colonies. This conviction prepared a heroic people for resistance ; and the otherwise trivial incident of throwing the tea overboard supplied the occasion for manifesting that state of public sentiment. I warn gentlemen by the history of these transactions, not to outrage the patience of a patriotic people, nor yet, like the British king and parliament, to spurn our entreaties, and turn a deaf ear to our prayers for justice.

Before the first fatal step is taken, remember that we have interests involved which we cannot relinquish ; rights which it were better to die with than live without. The direct pecuniary interest involved in this issue is not less than twenty hundred millions of dollars, and yet the loss of this will be the least of the calamities which you are entailing upon us. Our country is to be made desolate. We are to be driven from our homes—the homes hallowed by all the sacred associations of family and friends. We are to be sent, like a people accursed of God, to wander through the land, homeless, houseless, and friendless ; or, what is ten thousand times worse than these, than all, remain in a country now prosperous and happy, and see ourselves, our wives and children, degraded to a social position with the black race. These, these are the frightful, terrible consequences you would entail upon us. Picture to yourselves Hungary, resisting the powers of Austria and Russia ; and if Hungary, which had never tasted liberty, could make such stout resistance, what may you not anticipate from eight millions of southrons made desperate by your aggression ? I tell you, sir, sooner than submit we would dissolve a thousand such unions as this. Sooner than allow our slaves to become our masters, we would lay waste our country with fire and sword, and with our broken spears dig for ourselves honorable graves.

You tell us, sir, there is no intention of pushing us to extremities like these. I do not doubt the sincerity of gentlemen who make this avowal. If there was fixedness in their positions I would believe them, I would trust them. If members of Congress were to the political what stars are to the planetary system, I would take their solemn—and, I hope, sincere—declarations, and be satisfied. I should feel secure. But a few days, a brief space, and you will pass away, and your places will be filled by men more hostile than you, as you are more hostile than your predecessors, and the next who come after your successors will be more hostile than they. Look to the Senate—the conservative branch of the government. Already there are senators from the mighty states of New

York and Ohio, who repudiate the Constitution. One [Mr. Chase, of Ohio] says the Constitution is a nullity as regards slavery, and another [Mr. Seward, of New York] declares that slavery can and will be abolished, and that you and he will do it. He tells us how this is to be done. He, too, repudiates the constitutional obligation, and says that slavery rests for its security on public sentiment, and that public sentiment must and will destroy it. These are fearful declarations, coming from that quarter. They evince a settled purpose to pursue these aggressive movements to the last terrible extremity; and yet, sir, we are asked to fold our arms and listen to the syren song that all your ills will soon be o'er.

And now, Mr. Chairman, before the sands of my brief hour have quite run out, let me turn for a moment to the late recent and extraordinary movements in the territory of California,—movements fraught with incalculable mischief, and, if not arrested, destined to entail calamities the most terrible upon this country. I am told that the late administration is in some degree responsible for these movements. I know not if this be true. I hope it is not. Indeed, I have authority for saying it is not. Certainly no evidence has been advanced that the statement is true. But I care not who prompted the anomalous state of things now existing in California. At whatever time, and by whomsoever done, it has been without precedent, against the voice of the people's representatives, in derogation of the Constitution of the United States, and intended to rob the Southern States of their just and rightful possessions. Viewing the transaction in this light, and without stopping to inquire whose it was, I denounce it as unwise, unpatriotic, sectional in its tendencies, insulting to the South, and in the last degree despicable.

Twelve short months ago it was thought necessary to invoke the authority of Congress for the people of California to form a state constitution. The present Secretary of the Navy, then a member of this House, did, on the 7th day of February, 1849, introduce a bill for that purpose. The first section declared "that the Congress doth consent that a new state may be erected out of the territory ceded to the United States," &c. (*See Congressional Globe*, 2 Sess. 30 Con. p. 477.)

Whether the honorable Secretary, as a member of the cabinet, advised and consented to the late extraordinary proceedings in California, I pretend not to know. I do know that he bitterly inveighed against General Cass, in 1848, for a supposed intimation that the people of the territories might settle the slavery question for themselves, and chiefly on the ground that it was a monstrous outrage to allow aliens and foreigners to snatch from the South territory won by the valor of her troops. I know that he introduced the bill to which I have adverted, and urged its passage in a speech which was said to have given him his position in the cabinet. He certainly thought at that time, that the consent of Congress was necessary to the formation of a state government in California. The bill itself, to say nothing of the speech, assigned one pregnant reason for this thought, for by its second section it declared "that the foregoing consent is given upon the following reservations and conditions: *First*, that the United States hereby *unconditionally* reserves to the federal government all right of property in the public lands."

It was then thought a matter of some moment to reserve to the par-

ties in interest, their right of property in the soil. But the progressive spirit of the President and cabinet has gone far beyond such idle whims, and "the introduction of California into the Union as a sovereign state is earnestly recommended," without reservation of any kind, save alone that her constitution shall conform to the Constitution of the United States. If any one here knows the secrets of the cabinet councils, he can best inform us whether Mr. Secretary Preston thought it worth his while to intimate to the President and his associates that the formation of an independent government in California would of necessity vest in such government the right of property in the soil, and that her incorporation into the Union without reservation, would be to surrender the right of eminent domain. It would disclose an interesting piece of cabinet history to ascertain whether so trivial a matter ever engrossed the thoughts of that most august body—the President and his constitutional advisers.

It is amusing to see with how much cunning the author of the late special message endeavors to divide the responsibility of this nefarious proceeding with the late administration. Several times in the message it is broadly hinted that President Polk took the initiative in this business. This may be so. I have seen no evidence of it, and do not believe it; but whether true or false, it does not render the transaction less odious or more worthy of support. The President himself seems to think it too much for one administration to bear, and, therefore, strives to divide its responsibility with his distinguished Democratic predecessor. I commend his discretion, more than his generosity. It is discreet in him to shake off as much of the odium of this thing as possible. If it had been a worthy action, I doubt if he would not have appropriated the honors of it entirely to himself.

The President sees, as well as you or I, that there is a fearful accountability ahead, and he cries out in time, "Polk was to blame—I only followed up what he began." I would to God he were as willing to carry out all of Polk's unfinished plans.

Is there nothing wrong, let me ask the friends of the President, in this thing of the Executive—of his own volition, and upon his own responsibility—establishing a state government over the territory of the United States, and that too after Congress had been invoked and had refused her consent to the establishment of such a government? I have seen the time when if this thing had been done, the nation would have reverberated with the eloquent burst of patriotic indignation from gentlemen on the other side. General Jackson was charged with taking the responsibility, but he never assumed responsibility like this.

The manner of doing this thing is still more extraordinary than the thing itself. General Riley, a military commander, charged with the execution of certain necessary civil functions, is made the man of power in this business. That officer, on the 3d day of June, 1849, issued his proclamation, a paper at once novel and bold. His object is to make a new state, and he commences thus:—

"Congress having *failed* at its recent session to provide a new government for this country, the undersigned would call attention to the means which *he* deems best," &c., &c.

Yes, sir, there it is. Congress having failed to give government to

California, General Riley notifies the inhabitants that he has taken matters into his own hands; that he will give them a government, and that HE will authorize them to make a state for themselves. He does this, too, *because Congress had refused.*

I must do General Riley the justice to say he is not wholly an usurper in this business. He declares to the world in this same proclamation (a document by the way drawn up with acumen and legal precision), that the course indicated by him "is advised by the President and the Secretaries of State and of War," and he (General Riley) solemnly affirms that his acts are "fully authorized by law." I hope the General did not understand that Mr. Secretary Preston's bill was the law that "fully authorized" his acts. There might be a difficulty in sustaining the opinion on that basis, inasmuch as the bill did not pass Congress.

There are stranger things than these in this Riley proclamation "advised by the President, and Secretaries Clayton and Crawford." The General not only sets forth circumstantially what is to be done, but he designates the persons who are to do the things which he bids to be done. Hear him:—

"Every free male citizen of the United States and of *Upper California*, 21 years of age, will be entitled to the right of suffrage. All citizens of *Lower California* who have been forced to come into this territory on account of having rendered assistance to the American troops during the recent war with Mexico, should also be allowed to vote in the district where they actually reside," &c.

Now, sir, I humbly ask who gave the President and his cabinet the right to "advise" this military commander by one sweeping proclamation to admit the "*free* male citizens of *Upper California*," and "*ALL* the citizens of *Lower California*," (then in the country, under certain circumstances,) to the right of voting? In so important a matter as forming a state constitution, which was to affect important interests within the territory, and still more important interests without the territory, it would have been at least respectful to his southern constituents, if the President had confined the voting to *white* people; but all *free* males of *Upper California*, and *ALL* from *Lower California*, whether bond or free, were fully authorized to vote. Shame, shame upon the man who, in the midst of our struggles for blood-bought rights, thus coolly submits them to the arbitrament of such a people.

I have been speaking of what the President expressly authorized. He, by his agent, General Riley, in terms, authorized these people of whom I have been speaking to vote. They did vote; they were voted for; some of them had seats in the so-called California Convention. But the gross wrong—the palpable outrage—did not stop here. We all know—the President knows—that everybody voted. The whole heterogeneous mass of Mexicans, and foreign adventurers, and interlopers voted; and yet, the President, without one word of comment or caution touching these strange events, calmly recommends the progeny of this strange convention to the favorable consideration of Congress. If I had not ceased to be amazed at the conduct of the present President of the United States, I should indeed wonder what singular infatuation had possessed the old man's brain when he made that recommendation. Can it be that he has not read the treaty with Mexico, or the laws of his own country on the subject of naturalizing foreigners, that he thus recommends the admission of a state into the Union, with a constitution

formed mainly by persons who were strangers to our laws, and who, by our laws and by the treaty, were not citizens, and consequently had no right of suffrage? Look you, sir, to the treaty with Mexico. In its 8th article it is declared: "That Mexicans who shall prefer to remain in the territory may either retain the rights and title of Mexican citizens or *acquire* those of citizens of the United States." They shall make their election in one year after the treaty is ratified. "And those who shall remain in the territory after the expiration of that year without having declared their intention to retain the character of Mexicans, shall be considered to have ELECTED to become citizens of the United States."

Mexicans remaining in the territory after twelve months "shall be considered to have *elected* to become citizens of the United States;" but who shall make them citizens? This question is fully answered by the ninth article of this treaty. We have seen that Mexicans may *acquire* the rights of citizens of the United States, and that under certain circumstances they are deemed to have *elected* to become citizens, &c. Read the ninth article of the treaty: "Mexicans who, in the territories aforesaid, shall not preserve the character of citizens of the Mexican Republic, conformably with what is stipulated in the preceding article, shall be incorporated into the Union of the United States, and be ADMITTED at the proper time (to be judged of by the Congress of the United States) to the enjoyment of all the rights of citizens of the United States according to the principles of the Constitution."

Here we have it. They are "*to be incorporated into the Union, and be admitted at the proper time, to be judged of by Congress, to the enjoyment of all the rights of citizens of the United States.*" Where did the President get his authority to dispense with these articles, these solemn stipulations of the treaty? By what right does he extend to these people that dearest privilege of an American freeman, the right of suffrage? By what authority does he confer the power to hold office, to sit in a convention, and to trample under foot the rights of the southern people? The late Administration had something to do with making this treaty, and they provided that these people, at a proper time, to be judged of by Congress, should enjoy all these rights. Congress has not judged in the matter. Congress has done nothing. Congress has refused to act, and the President tells these people to vote, to accept office, to make a state constitution, to elect governors, secretaries, auditors, members of Congress, &c., &c. And when they have done as he bid them, he "earnestly recommends their acts to the favorable consideration of Congress." And this is the President who was going to act according to the laws and the Constitution, and abstain from all interference with the duties of Congress. *O tempora! O mores!*

[Here the hammer fell, and Mr. BROWN gave notice that he would append the unfinished remarks to his printed speech.]

The present President of the United States delights in doing in all things like Washington. In his annual message he alludes no less than three times, with evident self-complacency, to supposed similitudes between his acts and those of the illustrious Father of his Country.

In the earlier history of the republic, and in the time of Washington's presidency, a case bearing close resemblance to the one under discussion was presented for his consideration. How closely the second Washing

ton copies the precedent of the first may be gathered from the history of the transaction. That history has been briefly sketched by a distinguished, eloquent, and aged friend of President Taylor. I read from a pamphlet by George Poindexter:—

“Shortly after the cession by North Carolina of the south-western territory, certain influential individuals, anxious to hasten the formation of an independent state government within the ceded territory, induced the inhabitants to call a convention and frame a state constitution, to which they gave the name of ‘the State of Franklin.’ This proceeding met the unhesitating frowns and disapprobation of the Father of his Country—the illustrious Washington—who caused it to be instantly suppressed, and in lieu of this factitious state government, a territorial government was extended to the inhabitants by Congress, under which they lived and prospered for many years.”

If the first President, the great, the good, the illustrious Washington, would not listen to the proposition of the Franklanders, citizens as they were of the United States, for admission into the Union, under the circumstances attending their application, I ask how the present President shall justify his proceeding, in first prompting the *free male* citizens of Upper California, *all the people* of Lower California, and in fact the interlopers and adventurers from all the nations of the earth, now upon our territory, to form a state constitution, and ask admission into our Union? And now when this constitution, the creation of such a conglomerate mass, is about to be presented, let the friends of the President justify, if they can, his “earnest recommendation that it may receive the favorable consideration of Congress.”

Frankland was not admitted as a state, but a territorial government was given to the country under the name of Tennessee. As a territory these people again applied for admission, and again their application was rejected. I read from Poindexter’s pamphlet the history of this second application:—

“Subsequent to these transactions, the inhabitants of the south-western territory having increased, as it was believed, to a sufficient number to entitle them to become one of the states of the Union, the territorial legislature directed a census to be taken under the authority of an act passed by that body. This census having been so taken, exhibited a number of free inhabitants exceeding 60,000—being a greater number than was required by the ordinance of 1787 to admit them into the Union; and on the 28th of November, 1795, the governor being authorized thereto by law, issued his proclamation requiring the inhabitants of the several counties of the territory to choose persons to represent them in convention, for the purpose of forming a constitution or permanent form of government. This body so chosen, met in convention on the 11th January, 1796, and adopted a constitution, in which they declared the people of that part of said territory which was ceded by North Carolina, to be a free and independent state, by the name of the State of Tennessee. Without entering into minute details of all the proceedings which took place in relation to this constitution, it will be sufficient for my present purpose to refer to the Senate Journal of the first session of the fourth Congress, to which that constitution was submitted for the reception and approbation of Congress. In the report of the committee of the Senate, to whom this constitution was referred, it will be seen that this act of the territorial authorities was deemed premature and irregular; that the census ordered to be taken of the inhabitants was in many respects deficient in detail, and more especially that the enumeration of the inhabitants must, by the Constitution, be made by Congress; that this rule applied to the original states of the Union, and as their rights as members of the Union are affected by the admission of new states, the same principle which enjoins the census of their inhabitants to be taken under the authority of Congress, equally requires the enumeration of the inhabitants of any new state, laid out by Congress in like manner, should be made under their authority. This rule, the committee are of opinion, left Congress without discretion on this point. The committee therefore reported, that the inhabitants of that



part of the territory south of Ohio, ceded by North Carolina, are not at this time entitled to be received as a new state into the Union. This example is drawn from the action of Congress during the administration of Washington, and will serve to show you, sir, the great caution with which, under the administration of that illustrious individual, the state was admitted into the Union."

In the purer and better days of the republic it was thought necessary to consult Congress as to the disposition to be made of the territory belonging to the United States, and our fathers thought it necessary to show a decent regard to the demands of the Constitution, in admitting new states into the Union. But in these latter days, when soldiers become statesmen, without study, and men *intuitively* understand the Constitution, the old-fashioned notions of Washington and his compatriots are treated with scorn, and we are given to understand that the soldier-President can make new states without the aid of Congress, and in defiance of the Constitution. Whether the people will submit to this high-handed proceeding I do not know; but for my single self I am prepared to say, that "*live or die, sink or swim, survive or perish*," I will oppose it "at all hazards and to the last extremity."

What, Mr. Chairman, is to be the effect of admitting California into the Union as a state? Independent, sir, of all the objections I have been pointing out, it will effectually unhinge that sectional balance which has so long and happily existed between the two ends of the Union, and at once give to the North that dangerous preponderance in the Senate, which ambitious politicians have so earnestly desired. The admission of one such state as California, opens the way for, and renders easy the admission of another. The President already prompts New Mexico to a like course. The two will reach out their hands to a third, and they to a fourth, fifth, and sixth. Thus precedent follows precedent, with locomotive velocity and power, until the North has the two-thirds required to change the Constitution. WHEN THIS IS DONE THE CONSTITUTION WILL BE CHANGED. That public opinion, to which Senator SEWARD so significantly alludes, will be seen, and its power will be felt—universal emancipation will become your rallying cry. We see this. It is clearly set forth in all your movements. The sun at noon-day is not more visible than is this *startling danger*. Its presence does arouse our fears and set our thoughts in motion. It comes with giant strides and under the auspices of a southern President, but we will meet it, and we will vanquish it. The time for action is almost come. It is well for us to arrange the order of battle. I have listened, and will again listen with patience and pleasure, to the plans of our southern friends. My own opinion is this: that we should resist the introduction of California as a state, *and resist it successfully*; resist it by our votes first, and lastly by other means. *We can, at least, force an adjournment without her admission*. This being done, we are safe. The Southern States, in convention at Nashville, will devise means for vindicating their rights. I do not know what these means *will* be, but I know what they *may* be, and with propriety and safety. They may be to carry slaves into all of southern California, as the property of sovereign states, and there hold them, as we have a right to do; and if molested, defend them, as is both our right and duty.

We ask you to give us our rights by NON-INTERVENTION; if you refuse, I am for taking them by ARMED OCCUPATION.

## SQUATTER SOVEREIGNTY.

SPEECH IN THE HOUSE OF REPRESENTATIVES, FEBRUARY 12, 1850, DISSENTING FROM CERTAIN VIEWS PRESENTED TO THE SENATE BY MR. CASS.

MR. BROWN said he would occupy a very few minutes, in presenting some views which he should have presented the other day, but for the expiration of his hour.

Having already taken his position against the President's recommendation of the California constitution, and having expressed his abhorrence of the whole series of movements, which led to its adoption by the people in that country, he should not further allude to the President or Cabinet in that connection.

A new character had presented himself, as one of the champions of this new and extraordinary political movement. He alluded to General Cass, the late Democratic candidate for the Presidency. That distinguished gentleman had redeemed his pledge, and the pledge of his friends, on the subject of the Wilmot proviso. He had spoken against it. He had expressed his determination not to vote for it. With this he was satisfied; he would go further, and say, that the speech, so far as it related to the proviso, challenged his admiration and excited his gratitude. It was replete with sound views, eloquently and happily expressed. And no one could read it attentively without conceding to its author great ability. If the distinguished gentleman had closed his speech with his argument against the proviso, there would not have been a man in all the country more willing than himself to award him the highest honors. But the speech was marred by the expression of opinions, in its closing paragraphs, to which he (Mr. B.) and the southern people generally would dissent. General Cass had (if Mr. B. correctly understood him) avowed his opinion to be, that the people of the territories have the right to exclude slavery; and he was understood to sustain the action of the people in California in forming a state government. Against all these parts of the speech of General Cass, he (Mr. B.) entered his solemn protest. He felt bound to do this, because in the late presidential canvass he had, as the friend of General Cass, given a different interpretation to his views, as foreshadowed in the Nicholson letter. True, he had not done this without some misgivings, at first, of its correctness. But gentlemen nearer the person of General Cass than himself had interpreted the Nicholson letter to mean, that when the people of a territory were duly authorized to form a state constitution, they could then admit or exclude slavery at will, and whether they did the one thing or the other was not a matter to be questioned by Congress. He now conceded, as he had done in the presidential canvass, that whenever a people duly authorized to form a state constitution, have exercised this authority and asked admission into the Union, it is not properly a subject of inquiry whether their constitution admits or excludes slavery from the proposed state. But he understood General Cass as going further than this—to the extent of giving to the people of the territories the right to exclude slavery during their territorial

existence, and indeed before government of any sort had been established by Congress. He understood the doctrine as advanced by General Cass to be, that the occupants of the soil where no government existed—as in New Mexico, California, Deseret, &c.—had the right to exclude slavery; and against this doctrine he raised his humble voice; and though he might stand alone, without one other southern representative to sustain him, he would protest against it to the last.

In the late presidential canvass, men of all parties had assailed this doctrine. The Whigs charged General Cass with entertaining these views, and the Democrats had vindicated him against the charge. The doctrine was universally denounced by men of all parties in the South; and now we were startled with the intelligence that General Cass and General Taylor both approve it. For himself, no earthly consideration should keep him silent on such a question. No consideration personal to himself—no party ties nor political obligations, should seal his lips, when his country was about to be betrayed and sacrificed. He had denounced this doctrine before his constituents, he now denounced it before the House. He would not consume time, and prevent other gentlemen from speaking, by going into an argument on the subject. He had felt it due to his own position—to the cause of truth and justice, to make known at the first convenient moment, that what he condemned in General Taylor he equally condemned in General Cass; and having done this, he was satisfied.

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## LETTER TO HIS CONSTITUENTS.

FELLOW-CITIZENS: I feel impelled, by a strong sense of duty, to address to you this communication. If it shall seem to you more appropriate that I should have delivered the sentiments which follow, in the form of a speech in the House of Representatives, I reply, that the difficulty of obtaining the floor interposes at all times serious obstacles to that mode of address. At this period of excitement, when events of the greatest consequence are pursuing each other in rapid succession, it appears to me neither wise nor safe to risk the doubtful chances of an early opportunity of addressing you through the ordinary medium of a congressional speech.

Events of the utmost magnitude are transpiring at the seat of the national government. In these events you have a deep interest, and I would not leave you a single day in ignorance of my views, or in doubt as to the manner in which I mean to discharge the high and important trusts which your partiality has devolved upon me.

It is well known to you, that the people in California, following the lead of General Riley, an officer of the United States army stationed in that country, took upon themselves, during the last summer, the responsible task of forming a state constitution, and setting up a state government in that territory.

This proceeding has been extensively criticised, and very generally

condemned, as altogether anomalous and irregular. It is no part of my present purpose to follow up these criticisms. That the whole proceeding was irregular and in total disregard of the rights of the South, is beyond dispute. That it was *basely fraudulent*, I have ever believed, and do now believe. That the people in that country were prompted to the course pursued by them, by the secret spies and agents sent out from Washington, I have never doubted for a single moment. That they were induced to insert the "Wilmot proviso," in their so-called state constitution, by assurances held out to them that such a course would facilitate their admission into the Union of these states, I as religiously believe as I do in the existence of an overruling Providence.

Pursuing the idea that there had been illegitimate influences at work to produce particular results in California, I on two several occasions introduced into the House of Representatives resolutions directing a searching inquiry into all the facts. But the dominant power would give no countenance to my object.

I have seen it stated in a letter written in California, and published in the Republic newspaper in this city, "that it was everywhere understood in that country, that the President desired the people of California to settle the slavery question for themselves." I endeavored to bring the public mind to bear on this point, and in a card published in the Republic, I inquired "how it came to be everywhere thus understood?" but no response was ever made to the inquiry. The semi-official declaration, however, quickened my suspicions that some one had spoken *as by authority* for the President.

Thomas Butler King, Esq., one of the President's agents in California, has repeatedly declared that the California Convention was held under the sanction of President Polk and Secretaries Buchanan and Marcy; and that it was to these functionaries General Riley made allusion when he said to the people in that country that he was acting in compliance with the views of *the* President, and *the* Secretaries of War and of State. Mr. Polk is dead, and the two ex-secretaries positively deny the truth of Mr. King's declaration.

If General Riley stated officially to the people of California, on the 3d of June, 1849, the date of his proclamation, that *THE* President, *THE* Secretary of War, and *THE* Secretary of State approved his conduct—meaning thereby Mr. Polk, Mr. Buchanan, and Mr. Marcy—it was a fraud upon the people of California. The statement could only have been made with a view to give the *highest official* sanction to his conduct, and he knew perfectly well that all three of the gentlemen alluded to, were private citizens at the date of his proclamation. When he said *THE* President, he meant to give the weight of presidential influence to his acts. He meant that the people should understand him as alluding to the man in power, and not to a retired gentleman and private citizen.

Mr. King undertakes to prove that he is right in his declaration, and asserts that the steamer which carried him to California was the first arrival in that country after General Taylor's inauguration, and "*that she conveyed the first intelligence that Congress had failed to provide a government for that territory;*" and by way of giving point to his declaration in this respect, he asserts that he landed for the first time at San Francisco, on the 4th day of June; that General Riley was then at Monterey, distant about one hundred and fifty miles, and that he (Mr. King)

did not see him (Riley), or have any communication with him; and that the proclamation, calling the California Convention, bore date June 3d, 1849. Thus rendering it impossible, as he assumed, that said proclamation could have been based on information received from the present President and his Secretaries, through his (Mr. King's) arrival. Unfortunately for the accuracy of these statements and the legitimacy of the conclusions, General Riley commences his proclamation with the emphatic declaration "that Congress had failed to provide a government for California;" and the inquiry at once arises, how, if Mr. King landed at San Francisco on the 4th of June, 1849, with the *first intelligence* of this failure on the part of Congress, could General Riley have known and proclaimed the important fact at Monterey, distant one hundred and fifty miles, on the 3d of June of that year? We see at once that it could not be so.

President Polk and his cabinet could not have sent advice to California of this failure on the part of Congress; for it is historically true that the failure occurred in the very last hour of Mr. Polk's administration.

Through some channel General Riley was advised that Congress had failed to provide a government for California, and this after President Taylor came into power. I do not say that Mr. King was this channel, but I do say that from the same medium through which he derived the information that Congress had failed to provide a government, he may, and *probably* did, receive also the views of the President and his cabinet, and hence he was enabled to speak as he did with positive certainty of the one and of the other.

"You are fully possessed," says the Secretary of State, Mr. Clayton, to Mr. King, in a letter bearing date of April 3, 1849, "You are fully possessed of the President's views, and can with *propriety suggest* to the people of California the ADOPTION of measures best calculated to give them effect. These measures must, of course, originate solely with themselves." Mr. King, then, was informed that he could with propriety suggest the adoption of *measures* to carry out the President's views, he having been fully possessed of those views. But these *measures* must originate with the people! Beautiful! Mr. King is sent to California to suggest to the people the adoption of *measures* to carry out the President's views, but these *measures* must ORIGINATE with the people! And more beautiful still, Mr. King comes home, after disburdening himself of the views whereof he was "fully possessed," and gravely tells the country he did not go to California on a political mission, and had nothing to do with the local affairs of that country; and this, too, after he was denounced in the convention as the President's emissary. I suspect Mr. King could tell how it came to be "everywhere understood in California that the President wanted the people to settle the slavery question for themselves."

I have thought proper to present these facts and deductions, for the purpose of showing you that mine are no idle suspicions. When I say that, in my opinion, a great fraud has been perpetrated, I want you to understand that there is some foundation for my opinion.

The action of Congress, I am free to admit, may have had much to do in fixing the sentiment in the mind of the President and of the Californians, that no territorial government would be allowed which did not

contain the Wilmot proviso; and judging from the temper constantly displayed in urging this odious measure at all times and in all seasons, it was, I grant, a rational conclusion that no government asked for or established by the people would be tolerated unless slavery was prohibited; but was this a sufficient reason why the President or his agents, or even the people of California, should trample under foot the rights of the South? We had our rights in that country, and they ought to have been respected; I risk nothing in saying that they would have been, had we been the stronger party. Our fault consisted in our weakness, and for this we were sacrificed.

It is said, I know, that California is not suited to slave labor—that the soil, climate, the very elements themselves, are opposed to it. Slave labor is never more profitably employed than in mining; and you may judge whether slaves could be advantageously introduced into that country, when I inform you, on the authority of the debates of their convention, that an able-bodied negro is worth in California from two to six thousand dollars per annum.

I pass over the studied and systematic resistance which the California admissionists have constantly and steadily interposed against all investigation, with this single remark—"that the wicked flee when no man pursueth, *but the righteous are as bold as a lion.*"

Immediately after the assembling of the present Congress, it became apparent that the admission of California into the Union as a state was to become the great question of the session; and it was palpable from the beginning, that there was a large majority in favor of it. The President was not slow in taking his position. He brought the subject to the *favorable* notice of Congress in his annual message, and very soon after, in a special communication, he *earnestly* recommended it to our *favorable* consideration. The fearful odds of the President, the Cabinet, and a congressional majority, was arrayed against us; but, nothing daunted, a few of us, relying on the justice of our cause, and placing our trust in the intelligence, virtue, patriotism, and indomitable firmness and courage of our constituents, resolved to resist it.

To lay before you the grounds of that resistance, and to lay bare the sophistry and double-dealing of the friends of this measure, are among the chief aims of this letter.

A large class of those who advocate the immediate introduction of California into the Union, place their advocacy on the ground that the people have a right in all cases to govern themselves, and to regulate their domestic concerns in their own way. It becomes important to understand the meaning of declarations like these, and to ascertain the extent to which such doctrines may be rightfully extended.

I admit the right of self-government; I admit that every people may regulate their domestic affairs in their own way; I freely and fully admit the doctrine that a people finding themselves in a country without laws, may make laws for themselves, and to suit themselves. But in doing this they must take care not to infringe the rights of the owners and proprietors of the soil. If, for example, one hundred or one thousand American citizens should find themselves thrown on an island belonging to Great Britain, uninhabited and without laws, such citizens, from the very necessity of their position, would have a right to make laws for themselves. But in doing this, they would have no right to

say to her Majesty's subjects in Scotland, *you may* come to this island with your property, and to her Irish subjects, *you shall not* come with your property. They would have no right to set the proprietors at defiance, or to make insulting discriminations between proprietors holding one species of property and those owning another species of property. No such power would be at all necessary to their self-government, and any attempt to exercise it would justly be regarded as an impertinent attempt to assume the supreme power, when in fact they were mere tenants at will.

If the people of California, who had been left, by the unwise and grossly unjust NON-ACTION of Congress, without law and without government, had confined themselves to making their own laws and regulating their own domestic affairs in their own way, I certainly never should have raised my voice against their acts. But when they go further, and assume the right to say what shall be the privileges of the owners and proprietors of the soil—when they take upon themselves to say to the fifteen Northern States, your citizens *may come here* with their property, and to the fifteen Southern States, your citizens *shall not come here* with their property, they assume, in my judgment, a power which does not belong to them, and perform an act to which the South, if she would maintain her rights, ought not to submit.

Attempts have been made to draw a parallel between the conduct of our revolutionary fathers, who claimed the right to legislate independent of the British crown, and that of the Californians, who have assumed to set up an independent government of their own. When our fathers set up an independent government, they called it *revolution*; and if the people in California set up a like government, I know of no reason why their conduct shall not in like manner be denominated revolutionary. Our fathers revolted and took the consequences; California has a *right* to do the same thing; but that she has any other than a revolutionary right, I utterly deny.

Very distinguished men have assumed the position, that the rights of sovereignty over the territory reside in the people of the territory, even during their territorial existence. Let us test the soundness of this theory by a few practical applications. The expression "the people of a territory" is one of very uncertain signification as to numbers. It may mean one hundred thousand, or it may mean one thousand or one hundred. The question naturally presents itself, when does this right of sovereignty commence? Is it with the first man who reaches the territory? May he prescribe rules and regulations for those who come after him? or must there be a thousand or fifty thousand, or a greater or a less number, before the rights of sovereignty attach?

Perhaps we are told that the sovereignty begins when the people assemble to make laws. Very well; let us put this theory into practical operation. Ten thousand French emigrants have settled, let us suppose, at the base of the Rocky Mountains, without the limits of any organized state or territory of the United States, and they are without government or laws. They make laws for themselves, and you acquiesce; they set up a government for themselves, and you admit their right; they claim the sovereignty over the territory and set up an independent state government, and you admit their power to do so. You expect them to ask admission into the Union, but the new sovereignty

says no, we prefer independence, or we prefer to become an integral part of the French republic. What will you do under such circumstances? Can you force her to abandon her acknowledged independence? Can you force her into the Union against her will? What! require a sovereign to pursue your will and not her own? This would indeed be revolution.

If California is in fact, as she is admitted by some to be in theory, an independent sovereignty, I see nothing which is to prevent her remaining out of the Union if she elects to do so. I see nothing which may prevent her, if she chooses, allying herself to any other nation or country. I know of no right by which this government may take from her the independence, the sovereignty which she now possesses, if indeed she be a state without the Union.

The tenure by which we hold our territorial possession is indeed most fragile, if this doctrine of territorial sovereignty can be maintained. We may expend millions of treasure, and pour out rivers of our purest and best blood in the acquisition of territories, only to see them taken possession of, and ourselves turned out, by the first interloper who may chance to plant his foot upon them.

I am always glad of an opportunity to do the fullest justice to a political opponent, and in this spirit I beg leave to say, that, in my judgment, Mr. Clay, in a late speech in the Senate, took the true ground on this subject. He denied that California was a state, or that she could become so out of the Union. He maintained the right of the people to self-government, but denied the validity or binding force of their written constitution, until the state should be admitted into the Union. Will the reader recollect this, as I shall have occasion to use it in another connection.

Let us pause for a moment to consider the honesty and sincerity of purpose with which the lofty pretension has been set up in certain quarters, that the people have a right to regulate, arrange, and mould their institutions to suit themselves. In the early part of last year, the people inhabiting a large portion of our unoccupied possessions in what was then known as New Mexico and California, met in convention and framed a state constitution, giving the name of DESERET to their country. They defined their boundaries, and included within their limits a large extent of Pacific coast. Their constitution was in every element essentially republican. They sent their agent to Washington, with a modest request that the constitution thus formed should be accepted, and the state of Deseret admitted into the Union. How this application was treated we shall presently see. Later in the same year, the people of New Mexico formed a territorial government, and sent their delegate to Washington to present their wishes, and, if permitted, to represent their interests. In the summer of the same year, and several months after the Deseret convention, the Californians held their convention. They extended their boundaries so as to monopolize the whole Pacific coast, in total disregard of the prior action of Deseret. And then, in contempt of the modest example of her two neighbors, she sends, not an agent or a delegate to Washington, with a civil request, but she sends up two senators and two representatives, with a bold demand for instantaneous admission into the Union.

What followed? The President made two earnest appeals to Con-



gress to admit California, and he told us plainly to leave the others to their fate. Not only does he fail to give them a friendly salutation, but he in truth turns from them in scorn. Not a word does he utter in their behalf, or in defence of their independent conduct. Their modesty failed to commend them to his paternal notice.

In Congress, and throughout the country, a general outcry is now heard in favor of California. Everywhere throughout the length and breadth of the land, the cry of California, glorious California, is heard. It comes to us from the east and from the west, from the north and (I am pained to say) in some instances from the south. If any man has dared to interpose the slightest objection to the immediate admission of California—if any one has hesitated about yielding to California all that she so boldly demands, he has been denounced, black-balled, hooted at, and almost driven from society. Meantime no voice has been heard in defence of the rights of New Mexico and Deseret. They, too, assume to settle their own affairs in their own way. Yet no whisper of encouragement and hope greets their modest agent and delegate at Washington. The great national voice is engaged to sing and shout for California. Why has this been so? Why this marked distinction between these several parties? The people, we are told, have a right to act for themselves. California acted for herself, Deseret for herself, and New Mexico for herself; and yet, amid the din and clamor in favor of California, we have lost sight of her *more* retiring and modest sisters. Why is this? I'll tell you, fellow-citizens. Deseret and New Mexico did not insult the South by excluding slavery. With a becoming modesty they were silent on this subject. California, influenced by unwise counsels, flung defiance in your teeth, scoffed at your rights, and boldly threw herself into the arms of the North. Here is the secret of all this boiling and bubbling in favor of California, and here, too, may be found the end of the great doctrine that the people may settle the slavery question for themselves. If they settle it against the South it is well, and if they do not it is no settlement at all.

Ah! but we are told there is a vast difference between these territories; New Mexico and Utah have but few inhabitants, and California has many thousand—some say one hundred thousand and some say two hundred thousand. I do not understand that because a people are fewer in number, that therefore they have no political rights, whilst a greater number may have every right. But how stands the case in regard to these hundreds of thousands of people in California? We all know that the emigration to that country has been confined to hardy male adults, robust men. In most cases their families and friends have been left in the states, to which, in four cases out of five, they themselves have intended to return. At the elections last summer they voted about twelve thousand, and later in the fall, on the important question of adopting a state constitution, with the ballot-box wide open and free for every vote, they polled less than thirteen thousand. I should like to know where the balance of this two hundred thousand were. At least one hundred and fifty thousand of them, I suspect, were never in the country, and the rest regarded the whole thing as a ridiculous farce, with which they had nothing to do. And this is the state and these the people who have excluded slavery, and sent two senators and two representatives to Washington.

You will have no difficulty in determining in your own minds that I am opposed to allowing the people of the territories to settle this question, either for us or against us. It is a matter with which they have no concern. The states are equals and have equal rights, and whatever tends to impair or break down that equality, always has and always shall encounter my stern and inflexible opposition.

My position in reference to congressional action on this subject is easily explained. I am for non-intervention—total, entire, unqualified non-intervention. Leave the people of all the states free to go with their property of whatever kind, to the territories, without let and without hindrance, and I am satisfied. But this I must say, that whenever Congress undertakes to give protection to *property* in the territories, on the high seas, or anywhere else, there must be no insulting discrimination between slave property and any other species of property. To say that Congress may protect the northern man's goods in California, but that Congress shall not protect the southern man's slaves, *is intervention*. It is intervening for the worst ends, and in the most insulting manner.

We have been told, fellow-citizens, that we once said the people of a territory, when they come to make a state constitution, might settle the slave question for themselves, and that we have now abandoned that ground. Not so—I speak for myself. I have always maintained, and I maintain to-day, that the people of a territory, when *duly* authorized to form a state constitution, may settle this and all other questions for themselves and according to their own inclinations. But was California duly authorized? Where did she get her authority? We have been told that she got it from the Almighty. This is very well if it is so. But it would be more satisfactory to me to know that she got it from the proprietors of the soil, and that her action had been subordinate to the Federal Constitution.

I have no inclination to discuss this point at length. Whenever it can be shown that California has been subjected to the same ordeal through which Mississippi, Arkansas, Florida, and other slaveholding states have been compelled to pass, I will, if in Congress, vote for her admission into the Union, without a why or wherefore, as concerns slavery. But it is asking of me a little too much to expect that I shall vote for her admission, under all the remarkable circumstances attending her application, until she has passed this ordeal.

If it shall be shown that I am getting a fair equivalent for surrendering your rights in California, you may reasonably expect me, in your name, to favor a compromise. The great national mind wants repose, and I for one am ready for any arrangement which may afford a reasonable augury of a happy adjustment of our differences. This brings me to a brief review of Mr. Clay's so called compromise scheme.

The leading bill presented by Mr. Clay from "the Committee of Thirteen" contains three distinct and substantive propositions: First, the admission of California. In this, as in every other scheme of settlement tendered to the South, California, in all her length and breadth, stands first. Secondly, we are offered territorial governments for New Mexico and Utah (Deseret that was), *without* the Wilmot proviso; and thirdly, we have a proposition to dismember Texas, by cutting off enough of her northern possessions to make four states as large as Mississippi,

and for the privilege of doing this we are to pay — millions of dollars. The suggestions for filling this blank have varied from five to fifteen millions of dollars.

I have already suggested some reasons why the admission of California, as an independent proposition, ought not, in my judgment, to receive your sanction. I now propose to inquire whether the union of these three measures in one bill makes the whole, as a unit, more worthy of your consideration and support. All the objections to the admission of California stand out in the same force and vigor in Mr. Clay's bill as in all former propositions for her admission. We are asked to make the same sacrifice of feeling and of principle which we have so often and so long protested we would not make—unless indeed it shall be shown that we are getting a fair equivalent for these sacrifices. Mr. Clay has himself told us, in effect, that we were making these sacrifices. He has told us, as I remarked to you in another place, that California was not a state, and could not become so out of the Union. That, in truth, her constitution had no binding force, as a constitution, until the state was admitted into the Union. The constitution of California contains the anti-slavery clause, the "Wilmot proviso." But the constitution is a dead letter, so far as we are concerned. It has no vitality, no binding effect until the state is admitted. Congress admits her, and by the act of admission puts the proviso in force—gives it activity and life. Who, then, but Congress is responsible for the active, operative "proviso"—for that proviso which excludes you from the country? Congress and Congress alone is responsible. You can now understand more fully what I meant, when I signed a letter to his excellency the governor, saying, "that the admission of California was equivalent to the adoption of the Wilmot proviso." The northern people understand this, and to a man they are for her admission.

The question now is, are we offered any adequate consideration for making this sacrifice of feeling and of principle? This is a question worthy of the most serious and critical examination.

By the terms of the resolutions, annexing Texas to the United States, it is expressly provided, "that such states as may be formed out of that portion of her territory lying south of the parallel of  $36^{\circ} 30'$  north latitude, shall be admitted into the Union with or without slavery, as the people of each state asking admission may desire." And it is as expressly stipulated, that "in such STATE or STATES as may be formed out of said territory lying north of that line slavery shall be prohibited." In pursuance of these resolutions Texas came into the Union. The South consented to this arrangement, and to-day, as at all former periods, I am ready to abide by it.

Examine these resolutions, and what do we find? A clear and distinct recognition of the title of Texas to the country up to  $36^{\circ} 30'$ , as slave territory, for it is stipulated that the people may determine for themselves, at a proper time, whether slavery shall or shall not exist in all the country below that line. Nay more, the rights of Texas above this line are admitted; for it is expressly provided that in the STATE or states to be formed out of the territory north of  $36^{\circ} 30'$ , slavery shall be prohibited, but not until such state or states ask admission into the Union. We have, then, the clearest possible recognition of the title of

Texas up to  $36\frac{1}{2}^{\circ}$  as slave territory, and to sufficient territory above that line to make one or more states.

Now, what do we hear from the North? That Texas never had any just claim to any part of this territory; that it always did, and does now belong to New Mexico. But, as Texas is a young sister, and one with whom we should not deal harshly, we will give her — millions of dollars for her imaginary claim. Mr. Benton, in the exuberance of his liberality, offers fifteen millions of dollars; and other gentlemen, less ardent, propose smaller sums. But our present dealing is with Mr. Clay's plan for a compromise.

If the reader has a map, I beg that he will first trace the line of thirty-six degrees and thirty minutes, north latitude; and then fix his eye on the north-eastern boundary of Texas at the point where the one-hundredth parallel of longitude crosses the Red River; and, from this point, run a direct line to a point twenty miles above El Paso, on the Rio Grande; and between these two lines, he will have the *slave territory* which Mr. Clay's compromise proposes to sell out. It will be seen, on comparison, that this territory is nearly twice as large as the state of Mississippi. Whether five or fifteen millions of dollars are given for it, it is needless to say we shall have to pay more than our due proportion of the money.

To me, it is not a pleasant thing to sell out slave territory, and pay for it myself; and I confess that this much of the proposed bargain has not made the admission of California a whit more palatable to me.

I say nothing of Texas above  $36^{\circ} 30'$ ; that country was virtually surrendered to abolition by the terms of the Texas annexation. If Texas thinks proper to give it or sell it to the Free-Soilers, in advance of the time appointed for its surrender, I make no objection. But all the South has a direct political interest in Texas below this line of  $36^{\circ} 30'$ ; and I do not mean to surrender your interest without a fair equivalent.

What is to be the destiny of this territory, if it is thus sold out, and what its institutions? It is to become an integral part of New Mexico, and I risk nothing in saying it will be dedicated to free soil. Its institutions will be anti-slavery. If the character of the country was not to undergo a radical change in this respect, or if this change was not confidently anticipated, we all know that the northern motive for making this purchase would lose its existence. As the country now stands, it is protected by the annexation resolutions against all congressional interference with the question of slavery. Transfer it to New Mexico, and we expose it to the dangerous intermeddling which has so long unhappily afflicted that and all our territorial possessions.

This brings me to the only remaining proposition in Mr. Clay's *compromise* bill—that to establish territorial governments for New Mexico and *Utah*, without the "Wilmot proviso." If this were an independent proposition, tendered in good faith, and accepted by the North with a fixed purpose to abide by it, I have no hesitation in saying it would receive my cordial support. I repeat what I have often said, that whilst I shall resist the exclusion of slavery by congressional action, I have no purpose or design to force or fasten it upon any country through the agency of Congress. Whilst I demand that Congress shall not oppose our entrance into the territories with our slaves, I do not ask it to assist

us in going there. All I ask is, that we may be treated as equals—that no insulting discrimination shall be drawn between southern and northern people—between southern property and northern property.

How is this proposition regarded by the northern men to whom it is tendered, and by whom it may be accepted? The spirit in which it is accepted is a part of the *res gesta*; and I therefore press the inquiry, in what light is the proposition regarded?—in what spirit will it be accepted, if it is accepted at all, by northern men? When we shall have answered this inquiry, it will be seen whether there is *leaven* enough in this little lump to *leaven* the whole loaf.

Mr. Webster is positive that we can never introduce slaves into the territory. "The laws of God," he thinks, will for ever forbid it. He, and those who go with him, will not vote for the "proviso," because it is *unnecessary*. They are opposed, uncompromisingly opposed, to the introduction of slaves into the territories; and they are ready to do anything that may be found necessary to keep them out. It is easy to see what they will do, if we commence introducing our slaves. They will at once say, "the laws of God" having failed us, we must try what virtue there is in the "Wilmot proviso." Mr. Clay and those who follow him are quite certain that "we are already excluded by the laws of Mexico." They, too, are opposed to the introduction of slavery into the territories, and stand ready to see it excluded. The northern men who stand out against the *compromise*, insist, and will continue to insist, on the Wilmot proviso, as the only certain guarantee that slavery will be permanently excluded. All, all are opposed to our going in with our slaves, and all are ready to employ whatever means may be necessary to keep us out. *I assert the fact distinctly and emphatically*, that we are told every day that if we attempt to introduce our slaves at any time into New Mexico or Utah, there will be an immediate application of the "Wilmot proviso," to keep us out. Mark you, the proposition is to give *territorial* governments to New Mexico and Utah. These are but congressional acts, and may be altered, amended, explained, or repealed, at pleasure.

No one here understands that we are entering into a compact, and no northern man votes for this compromise, with the expectation or understanding that we are to take our slaves into the territories. Whatever additional legislation may be found necessary hereafter to effect our perfect exclusion, we are given distinctly to understand will be resorted to.

But there is yet another difficulty to be overcome, a more serious obstacle than either "the laws of God," as Mr. Webster understands them, or "the laws of Mexico," as understood by Mr. Clay. In regard to the first, I think Mr. Webster is wholly mistaken, and if he is not, I am willing to submit; and in regard to the second, I take the ground, that when we conquered the Mexican people, we conquered their laws. But Mr. Clay's bill contains a provision as prohibitory as the "proviso" itself. The territorial legislature is denied the right to legislate at all in respect to African slavery. If a master's slave absconds, no law can be passed by which he may recover him. If he is maimed, he can have no damages for the injury. If he is decoyed from his service, or harbored by a vicious neighbor, he is without remedy. A community of slaveholders may desire to make laws adapted to their peculiar wants in this respect, but Congress, by this compromise of Mr. Clay's, denies them the right to do so. They shall not legislate in regard to African

slavery. What now becomes of the hypocritical cant about the right of the people to regulate their own affairs in their own way?

With these facts before us, it becomes us to inquire how much we give and how much we take, in voting for Mr. Clay's bill. We admit California, and, being once in, the question is settled so far as she is concerned. We can never get her out by any process short of a dissolution of the Union. We give up a part of pro-slavery Texas, and we give it beyond redemption and for ever. Our part of the bargain is binding. Our follies may rise up and mock us in after times, but we can never escape their effects. This much we give; now what do we take? We get a government for New Mexico and Utah, without the Wilmot proviso, but with a declaration that we are excluded already "*by the laws of God and the Mexican nation*," or get it with a prohibition against territorial legislation on the subject of slavery, and with a distinct threat constantly hanging over us, that if we attempt to introduce slaves against these prohibitions, the "Wilmot proviso" will be instantly applied for our more effectual exclusion.

Such is the compromise. Such is the proposed bargain. Can you, fellow-citizens, expect me to vote for it? Will you demand of your representative to assist in binding you hand and foot, and turning you over to the tender mercies of the Free-Soilers?

It is said, we can get nothing better than this. But is that any sufficient reason why we should vote for it ourselves? If I am beset with robbers, who are resolved on assassination, must I needs lay violent hands on myself? or if my friend is in extremis, must I strangle him? We can get nothing better, forsooth! In God's name, can we get anything worse? It is said that if we reject this, they will pass the "Wilmot proviso." Let them pass it; it will not be more galling than this. If the proviso fails to challenge our respect, it at least rises above our contempt. If it ever passes, it will be the Act of the American Congress—of men learned in the law, and familiar with the abstruse readings of the Constitution. It will be done deliberately, and after full reflection. It will not be done by adventurers on the shores of the Pacific, who seem to know but little of our Constitution or laws, and to care less for our rights.

I have heard it said that it will be dangerous to reject the application of California for admission into the Union. Already she is threatening to set up for herself, and if we reject her, she will withdraw her application and establish herself as an independent republic on the Pacific. *Let her try it.* We have been told that if the South refuse to submit to the galling insults and outrageous wrongs of the North, the President will call out the naval and military power of the nation, and reduce us to submission. When California asserts her independence, and sets up her republic on the Pacific, we shall see how quick the President will be to use this same military and naval force, in bringing her back to her allegiance. These threats have no terrors for me.

As I could respect the reckless and bold robber who, unmasked, presents his pistol and demands my money or my life, above the petty but expert pickpocket, who looks complaisantly in my face while he steals my purse,—so can I respect the dashing and dare-devil impudence of the Wilmot proviso, which robs the South, and takes the responsibility, above the little, low, cunning, sleight-of-hand scheme, which robs

us just as effectually, and leaves us wondering how the trick was performed.

So long as I remain in your service, fellow-citizens, I will represent you faithfully, according to my best judgment. In great emergencies like this, I feel the need of your counsel and support. It would give me pain, if any important vote of mine should fail to meet your approbation. Whilst I shall never follow blindly any man's lead, nor suffer myself to be awed by any general outcry, I confess myself not insensible to the applause of my countrymen. In a great crisis like the present, men must act, responsibility must be taken, and he is not fit to be trusted who stops in the discharge of his high duties to count his personal costs.

I cannot vote for Mr. Clay's compromise bill. With very essential changes and modifications, I might be reconciled to its support. These I have no hope of obtaining, and I therefore expect to vote against it. Like the fatal Missouri compromise, it gives up everything and obtains nothing; and like that and all other compromises with the North, it will be observed, and its provisions maintained, just so long as it suits the views of northern men to observe and maintain them, and then they will be unscrupulously abandoned.

It will give me great pleasure to find myself sustained by my constituents, in the votes I intend to give. My head, my heart, my every thought and impulse admonish me that I am right, and I cannot doubt or hesitate.

Your fellow-citizen,

A. G. BROWN.

WASHINGTON CITY, May 13, 1850.

## ADMISSION OF CALIFORNIA.

On the 13th of June, 1850, in the House of Representatives, an amendment to the bill admitting California was rejected, to the effect that thereafter it should not constitute an objection to the admission of a state lying south of the Missouri Compromise line that her constitution tolerated slavery. Mr. Brown, of Mississippi, renewed the amendment, *pro forma*, and said:

I LONG since made up my mind that I would introduce no proposition of my own, nor vote for any other man's proposition, which did not give ample justice to my section. My determination was not formed without consideration. The whole ground had been duly examined, and my judgment was based on a solemn conviction, that no proposition which did not inflict positive injury on the South had the least chance of favor in this House. If I had ever been brought to doubt the correctness of this judgment, the vote just taken would have convinced me beyond all dispute that I was right.

Day by day our ears are filled with the cry of "compromise!" "adjustment!!" We have been invoked time and again to come forward and settle this angry dispute, on terms equitable and just to all sections of the confederacy. We have been admonished, in high-sounding phra-

seology, that to the people of the states, when forming their constitutions, belonged the duty and the right of settling for themselves the question of slavery or no slavery. Some, we have been told, fanatical and violent, would repudiate this doctrine; but the great body of the moderate men of the North, of all parties, we have been assured, had planted themselves on this broad, republican platform. Now, sir, what have we seen? The question has been taken on a proposition declaring that it shall hereafter be no objection to the admission of a state lying south of  $36^{\circ} 30'$  that her constitution tolerated or prohibited slavery, and this proposition has been voted down—voted down, sir, by a strictly sectional division—all the southern members voting for it, and all the northern members, with but one honorable exception, voting against it.

Mr. HARRIS, of Illinois. Three or four.

Mr. BROWN. I saw but one—Mr. McClernand. There may have been three or four. It may have been that five or six threw up their hats and cried "God save the country!"

Mr. BISSELL. I was not in my seat. I should have voted for it with great pleasure.

Mr. HARRIS, of Illinois. I voted for it.

Mr. BROWN. It may be that five or six voted for the proposition. But what of that? Where was the great body of the northern members, Whigs and Democrats? They were just where I have always predicted they would be when it came to voting. They were found repudiating the very doctrine on which they ask us to admit California—the doctrine of self-government in regard to slavery.

There could be no mistaking the intention of this vote. The gentleman from Kentucky [Mr. Marshall], in a speech of marked emphasis, had called on the South to cease debating, and let us have a vote—a vote which should test the question, whether northern members were prepared to assert the doctrine, that under no circumstances should any other slaveholding state enter this Union. The debate did cease in obedience to that appeal, the vote was taken, and the result is before us. And now, sir, in reference to that result I have a word to say. It explodes at one dash, the hollow-hearted and hypocritical pretension that this question was to be left to the people, when they came to form their respective constitutions. It verifies what I have said here and elsewhere, that this doctrine was a miserable cheat, an infamous imposition, a gross fraud upon the South. If the people, as in the case of California, make an anti-slavery constitution, the doctrine is applied and the state is admitted; but if any other state shall offer a pro-slavery constitution, we are given by this vote distinctly to understand, that such state, her constitution, and this doctrine, will all be trampled under foot together.

I want my constituents and the country to see to what end we are to come at last. The bold stand is taken by this vote that not another slave state is to be admitted, no odds what her constitution may say.

I take ground with the eloquent gentleman from Georgia [Mr. Toombs], and now declare, that if this is to become the ruling principle of the North—if we are thus to crouch at the footstool of power—if we are to be brought down from our high position as equals to become your dependants—if we are to live for ever at your mercy, rejoicing in your smiles and shrinking from your frown—if indeed, sir, it has come



to this, that the Union is to be used for these accursed purposes, then, sir, by the God of my fathers, I am against the Union; and so help me Heaven, I will dedicate the remnant of my life to its dissolution.

Men may talk of adjustments, letters may be written, speeches may be made, newspapers printed to glorify the Union—but, sir, if this is the Union you would glorify, it is base-born slander to say the South is for it. If we are to have a Union of equals, it will for ever rest upon all our hearts and all our hands—it will be eternal. But if it is to be a Union of the tyrant and the serf, a Union of the monarch and the menial, a Union of the vulture and the lamb, then, sir, I warn gentlemen it will be a Union of perpetual strife. Say what you will, write what you will, speak what you will, think what you will, the South will wage eternal warfare upon such a Union. We will invoke with one voice the vengeance of Heaven upon such a Union—we will pray unceasingly to the God of our deliverance that he will send us a bolt from heaven to shiver the chain which thus binds us to tyranny and oppression.

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## DELEGATE FROM NEW MEXICO.

SPEECH IN THE HOUSE OF REPRESENTATIVES, JULY 19, 1850, ON THE ADMISSION OF THE DELEGATE FROM NEW MEXICO IN ADVANCE OF HER TERRITORIAL ORGANIZATION.

MR. BROWN said he had taken no part in the debates on the question of admitting the delegate from New Mexico, nor did he intend to participate in this discussion at any great length.

The honorable gentleman from Tennessee [Mr. Gentry] had announced the principle which had governed his vote in favor of Mr. Smith, as a delegate from New Mexico, and had informed us that he should govern himself by the same principle in voting for Mr. Babbitt, the delegate from Deseret. To the correctness of the honorable gentleman's theory, Mr. B. made no sort of objection, and if the theory was applicable to the matter in hand, he should be found voting with the gentleman from Tennessee.

The honorable gentleman says, it is a part of the early theory of our government, that, whenever you govern a people, you should grant them representation. No one could mistake the meaning of the gentleman. He meant to assimilate this case to that of our colonial forefathers, and to assume that, as they complained with justice of the British Crown for governing them without giving them representation, the people in New Mexico and Deseret may justly make the same complaint of us. The colonies *were* governed. The Crown sent them governors, secretaries, judges and tax-gatherers. It required the acts of their local legislatures to be sent *home* for approval. It governed them with most despotic sway; but do we govern New Mexico and Deseret? How, sir, in what manner have we governed these territories? We have steadily refused them all governments. The ægis of our protection has not been extended over them. We have sent them neither governors, secretaries,

judges nor tax-gatherers. We have taken no cognisance of them, or of their condition. This state of things ought not so long to have existed. It was the solemn duty of Congress to have taken these people under its care—to have extended over them the shield of the Constitution—to have given them laws and *government*. It was a reproach to Congress that all this had been neglected or refused. He (Mr. B.) took his due share of this general reproach. It had been the misfortune of himself and of others, that they could not agree on a form of government proper to be granted. It had been the misfortune of the people who were now seeking this informal admission on the floor of Congress, that these differences of opinion existed. But were we on that account to set all precedent at defiance, disregard the law, and trample the principles of the Constitution under foot? He could not agree to this. He stood ready now, as he had stood from the beginning, to vote a proper republican form of government to these territories—to fix for them proper metes and bounds; and this being done, he should vote for the admission of delegates from each.

Mr. B. said he disclaimed all sectional feelings in the votes he was giving. He had taken ground against the admission of Mr. Smith when he avowed himself a zealous pro-slavery advocate. He based his opposition then, as now, on the ground that the laws of the United States and the Constitution had not been extended over the territory; that no territorial government had been established; that nothing had been done which gave to New Mexico any legal right to have her delegate on the floor of Congress. When Mr. Smith changed his position, and to propitiate certain influences, he turned Free-Soiler, and published a vulgar tirade against the South, he (Mr. B.) had not changed his position. He voted against him, as he had originally intended to do. He should now vote against Mr. Babbit, albeit he was understood to be at least not unfriendly to the South.

He could not consent to admit every one to a seat on this floor who comes here and demands admission. If the people on Tiger Island should send us a delegate, he would vote against him. If John Ross or Peter Pitchlyn ask admission from the Choctaws and Cherokees, he would vote against them. If the hunters and trappers on the Rocky Mountains should send their delegate here, he would vote against him.

In all this proceeding he should govern himself by no sectional feeling, but by the sternest principles. Whenever delegates came here, as they had come in the earlier and better days of the republic, from Ohio and Mississippi, from Alabama and Indiana, from Arkansas and Michigan, and, indeed, from all the territories, he should vote to admit them, and ask no questions as to whether they or their constituents were for or against slavery.

He would not pursue this subject. He had risen simply to reply to a remark of his friend from Tennessee. He feared that the popular idea that government and representation should go hand in hand, when propagated by a gentleman so distinguished as the honorable member from Tennessee, and coupled with the question in hand, might mislead the public mind. He had, therefore, felt bound to point out the clear distinction between the case before us, and the one assumed by the gentleman to exist.

He concluded by repeating that, whenever delegates presented them-

selves from territories formed by the United States, and elected according to law, he should vote for their admission. Beyond this he would not go.

## HOMESTEADS.

SPEECH IN THE HOUSE OF REPRESENTATIVES, JULY 26, 1850.

WHEN arrested in the progress of my remarks yesterday, I was about to say that I approved of the main object of the bill reported by the Committee on Agriculture, and which had been advocated with so much zeal and ability by the gentleman from Tennessee [Mr. Johnson]. I was about to say that my judgment approved the policy of supplying, by some appropriate means, a home to every citizen.

Ours is essentially an agricultural community. The national prosperity of this country, more than any other, depends upon the production of its soil. Whatever tends to increase that production, enhances the national wealth, and, by consequence, increases the national prosperity. The first care of this nation should be to promote the happiness and prosperity of its citizens; and acting on this hypothesis, it has been my constant aim to promote the passage of all laws which tended to ameliorate the condition of the toiling millions.

I have always thought, and now think, that some salutary reform in our land system, by which a fixed and permanent home should be placed within the reach of every citizen, however humble his condition in life, would promote the national prosperity, add to the wealth of the states, and give fresh impetus to the industry and perseverance of our people.

I repeat, sir, that I am for giving to every man in the United States a home—a spot of earth—a place on the surface of God's broad earth which shall be his against the demands of all the world—a place where, in the full enjoyment of all his senses, and the full exercise of all his faculties, he may look upon the world, and, with the proud consciousness of an American citizen, say, This is my home, the castle of my defence; here I am free from the world's cold frowns, and exempt from the Shylock demands of inexorable creditors. These, sir, are my sentiments, long entertained, and now honestly expressed; nor am I to be deterred from their advocacy by any general outcry. Call these sentiments Socialism, Fourierism, Free-Soilism—call them what you please—say this is the doctrine of "vote yourself a farm"—say it is anti-rentism—say what you please—it is the true doctrine; it embraces great principles, which, if successfully carried out, will lead us on to higher renown as a nation, add to the wealth of the separate states, and do more for the substantial happiness of the great mass of our people than all your other legislation combined.

Congress has been in session nearly eight months, and what have you done?—what have you been trying to do? More than six months of that time has been expended in attacking and defending the institution of slavery—the North depreciating and trying to destroy the sixteen

hundred millions of dollars invested in this species of property; and the South, forgetting for a season her party differences, banding together for the defence of this vast interest. Sometimes the monotony of this tedious drama has been relieved by a glance at other matters,—a member has appeared to advocate the manufacturing interests, or possibly to put on foot some grand scheme of internal improvement. But, whatever has been said in all our discussions, or by whomsoever it has been said, “the upper ten” have been constantly in view. No one has thought it worth his while to take account of the wants of the millions who toil for bread. The merchants and the manufacturers, the mariners and the speculators, the professions and the men of fortune everywhere, have their advocates on this floor. I speak to-day for the honest, hard-fisted, warm-hearted toiling millions—I speak here, in the councils of this nation, as I speak in the midst of my constituents; and whilst I do not object to the consideration which you give to other interests and other pursuits, I stand up here to demand even-handed justice for the honest but humble cultivator of the soil.

I cannot forget my allegiance—I know the men whose devotion sustains this government—I know the men whose friendship sustains me against the attacks of slander and the malignity of the interested few. For them I speak, and by no senseless cry of demagoguism, will I be turned from my purpose of vindicating their rights on this floor.

Talk, sir, of your lordly manufacturers, your princely merchants, your professional gentry, and your smooth-tongued politicians. The patriotism of one simple-hearted, honest old farmer would outweigh them all; and, for private friendship, I had rather have the hearty good will of one of those plain old men than the hypocritical smiles of as many of your smooth-tongued oily fellows as would fill this Capitol from its dome to its base.

It is my fortune to represent a constituency in which is mingled wealth and poverty;—whilst some are wealthy, and many possess more than a competency, there are many others on whom poverty has fixed his iron grasp. All, I hope, are patriotic. But, sir, if I were going to hunt for patriots who could be trusted in every emergency; patriots who would pour out their blood like water; and who would think it no privation to lay down their lives in defence of their country, I would go among the poor, the squatters, the preëmptors, the hardy sons of toil. Though I should expect to find patriots everywhere, I know I should find them here.

Sir, in the great matter of legislation, shall men like these be neglected? I invoke gentlemen to forget for a moment the loom and the furnace, the storehouse, and the ships on the high seas, and go with me to the houses of these people; listen to the story of their wrongs, and let us together do them justice.

Men in affluent circumstances know but little of the wants of other men, and, unfortunately, care less for the miseries of the poor. Reared in the cradle of fortune from infancy to manhood, they do not understand why it is that some men toil with poverty all their lives, and die at last in penury. Let gentlemen picture to themselves a man reared in humble life, without education, and with no fortune but his hands; see him going into the wild woods with a wife and a family of small children, there, by his unaided exertions, to rear his humble dwelling, to

clear the forest and make way for his planting. See him after the toils of the day are over, returning to that humble dwelling to receive the smiles of his wife and hear the merry prattle of his little children. Watch him as he moves steadily and firmly on from day to day; fancy to yourself his heart buoyant with hope as he marks the progress of his growing crop, and pictures to himself the happiness of his wife and little children when he shall have gathered the reward of his summer's toil, sold it, and with the proceeds secured this his humble home.

Look, sir, at this scene; gaze on that sun-burnt patriot, for he is worthy of your admiration. Now go with me one step further, and behold the destruction of all these fairy visions; blighting seasons, low prices, disease, a bad trade, or some unforeseen disaster has overtaken him. His year of honest industry is gone—the time has come when government demands her pay for this poor man's home. He is without money—government, with a hard heart and inexorable will, turns coldly away, and the next week or the next month she sells *her* land, and this man's labor, his humble house and little fields, are gone. The speculator comes, and with an iron will, turns him and his family out of doors; and all this is the act of his own government—of a government which has untold millions of acres of land. Now, Mr. Speaker, let me ask you, can this man love a government that treats him thus? Never, sir, never. To do so, he should be more than man, and scarcely less than God. Treatment like this would have put out the fire of patriotism in *Washington's* breast, and almost justified the treachery of Arnold.

Instead of treating her citizens thus, I would have this government interpose its strong arm to protect them from the iron grasp of the heartless speculator. By doing so, you encourage industry, promote happiness, develop the resources of the soil, make better men and purer patriots. In a word, you perform a vast amount of good without the possibility of doing harm.

Not having seen the bill reported by the committee under circumstances which afforded an opportunity for a critical examination, I am not prepared to say that its details meet my approbation.

I am disinclined to give to the settler an absolute title to lands. I am so, sir, because I would secure him in the possession of his home against his misfortunes, and even against his own improvidence. If he is an honest and industrious man, he should have a home where that honest heart could repose in peace, and where the hand of industry could find employment. If he be dishonest, give him a home where, in the bosom of his family, he may hide his shame, and where they may find shelter from the frowns of a cruel world. If he is idle and worthless, give him a home where his wife and children may toil, and, by their example, bring him back to habits of honest industry. In any and in every event, give him a home, and secure him in the possession of that home, against all the contingencies of life and vicissitudes of fortune. When you have done this, rest satisfied that you have at least made a better man, and done something towards the general prosperity.

My own scheme has been reduced to the form of a bill, and before I take my seat I beg leave to send it to the Clerk's desk, that it may be read—premising that I am wedded to no special plan. The object is a good one; it meets my cordial approbation, and I shall most heartily unite in any scheme which gives reasonable promise of success.

I offer the paper which I hold in my hand as a substitute for the original proposition, and ask that it may be included in the motion to print.

Mr. Brown's proposition was read.

Strike out all after the enacting clause, and insert as follows :

That the laws now in force granting preemption to actual settlers on the public lands, shall continue until otherwise ordered by Congress, and that the same be extended to all the territories of the United States.

SEC. 2. *And be it further enacted*, That from and after the passage of this act, the rights of preëmptors shall be perpetuated : that is to say, persons acquiring the right of preemption shall retain the same without disturbance, and without payment of any kind to the United States, but on these conditions : First, The preëmptor shall not sell, alienate or dispose of his or her right for a consideration, and if he or she voluntarily abandons one preemption and claims another, no right shall be acquired by such claim, until the claimant shall first have testified, under oath, before the register of the land office when the claim is preferred, that he or she has voluntarily abandoned his or her original preemption, and that no consideration, reward or payment of any kind has been received, or is expected, directly or indirectly, as an inducement for such abandonment ; and any person who shall testify falsely in such case, shall be deemed guilty of perjury. Second : Any person claiming and holding the right of preemption to lands under this act, may be required by the state within which the same lies, to pay taxes thereon in the same manner, and to the same extent, as if he or she owned the said land in fee simple ; and in case such lands are sold for taxes, the purchaser shall acquire the right of preemption only. Third : Absence of the preëmptor and his family for six consecutive months, shall be deemed an abandonment, and the land shall, in such case, revert to the United States, and be subject to the same disposition as other public lands.

SEC. 3. *And be it further enacted*, That lands preëmpted, and the improvements thereon, shall not be subject to execution sale, or other sale for debt ; and all contracts made in reference thereto, intended in anywise to alienate the right, or to embarrass or disturb the preëmptor in his or her occupancy, shall be absolutely null and void.

SEC. 4. *And be it further enacted*, That the preëmptor may, at any time, at his or her discretion, enter the lands preëmpted, by paying therefor to the proper officer of the United States one dollar and twenty-five cents per acre.

SEC. 5. *And be it further enacted*, That in case of the preëmptor's death, if a married man, his right shall survive to his widow and infant children, but the rights of the older children shall cease as they respectively come of age, or when they reach the age of twenty-one years ; in all cases the right of preemption shall remain in the youngest child. And in case of the death of both father and mother, leaving an infant child or children, the executor, administrator, or guardian, may at any time within twelve months after such death, enter said preëmpted lands in the name of said infant child or children, or the said preemption, together with the improvements on the lands, may be deemed property, and as such, sold for the benefit of said infants, but for no other purpose, and the purchaser may acquire the right of the deceased preëmptor by such purchase.

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In reply to Mr. Morse, of Louisiana, Mr. BROWN said : Mr. Chairman, the gentleman from Louisiana [Mr. Morse], in the progress of his remarks was understood by me to assume the ground that my proposition is unconstitutional. I did not, as you know, Mr. Speaker, undertake to explain, much less to vindicate that proposition. Its provisions are so few and so simple, that it may be well left to speak its own vindication, even against the furious assault of the honorable gentleman.

It proposes simply to perpetuate a law which has stood for years on your statute book, an honorable monument to the wisdom and justice of Congress. To-day, for the first time, it has been discovered to be unconstitutional. The preemption law struggled into existence against the combined opposition of many of the first minds in the country. It has received the repeated sanction of Congress, and to-day I know of no

man from the new states who desires its repeal, or who has the boldness to avow such desire if he feels it. Instead of limiting the right of the preëmtor to one year or two years, I simply propose to perpetuate that right, and this is the measure which the astute gentleman from Louisiana says is unconstitutional. I shall not stop to vindicate the measure from such a charge. The government has full power to *dispose* of the public lands, and in the exercise of this power, it has from time to time reduced the price, and in many hundred instances given them away.

I ask the honorable gentleman if the act by which five hundred thousand acres of the public lands were given to the state of Louisiana was unconstitutional? Were the various acts giving lands to the states, Louisiana among the rest, for educational purposes, unconstitutional? Did the honorable gentleman violate the Constitution last year, when he voted to give to his own state five millions of the public lands for works of internal improvement? Did we all violate the Constitution the other day, when we voted bounty lands to the soldiers of the last war with Great Britain and all our Indian wars?

No one knows better than the honorable gentleman, that this government has habitually given away the public lands—given them to the states for internal-improvement purposes; given them to establish colleges and primary schools; given them to railroad and canal companies given them to states and to soulless corporations, for almost every conceivable purpose; and all this has been done *within* the Constitution; but now, sir, when it is proposed to allow the humble citizen to *reside* on these lands, the gentleman starts up as though he had just descended from another world, and startles us with a declaration that we are violating the Constitution.

It has pleased the honorable member to denominate this as a villanous measure; and with great emphasis he declares, that its supporters are demagogues. It will not surprise you or others, Mr. Speaker, if I speak warmly in reply to language like this. The gentleman was pleased to extract the poison from his sting, by declaring that he used these words in no offensive sense. In reply, I shall speak plainly, but within the rules of decorum.

"Demagoguing,"—"demagoguing," says the honorable gentleman, "for the votes of the low, ill-bred vagrants and vagabonds." Sir, this is strange language, coming from that quarter. I know something of the gentleman's constituents. Many of the best of them are of this despised caste; many of them are the low, ill-bred vagabonds, of which the gentleman has been speaking. Many, very many, of them are squatters on the public lands. Sir, I should like to hear the honorable gentleman making the same speech in one of the upper parishes of Louisiana, which he has this day pronounced in the American Congress. I can well conceive how his honest constituents the squatters, would stare and wonder, to hear a gentleman, so bland and courteous last year, now so harsh and cruel. Yes, sir, the gentleman's squatter constituents would stand aghast to hear the representative denouncing them as a dirty, ill-bred set of vagabonds and scoundrels—when the candidate, with a face all wreathed in his blandest smile, had told them they were the cleverest fellows in the world!

It may do very well, Mr. Speaker, for gentlemen, when they come on to Washington, to get upon stilts and talk after this fashion. It may

sound beautiful in the ears that are here to catch the sound, thus to denounce a measure intended to relieve the poor man's wants as villainous, and its advocates as demagogues. But, sir, I take it upon myself to say there is not a congressional district in the West or Southwest where a candidate for Congress would dare to use such language.

Sir, I know very well how popular electioneering canvasses are conducted, and bold and valiant as the gentleman is, he would scarcely commit the indiscretion of saying to any portion of the voters in his district that they were an ill-bred set of vagabonds, and if he did, they would hardly commission him to repeat the expression in Congress. Let me warn the gentleman, that if the speech made by him to-day shall ever reach his constituents, it will sound his political death-knell. If I owed the gentleman any ill-will, which I take this occasion to say I do not, it would be my highest hope that he would write out and print that speech just as he delivered it. I should at least have a comfortable assurance that the speech would be the last of its kind.

In conclusion, Mr. Speaker, I have to repeat that, notwithstanding the maledictions of the gentleman from Louisiana, I am still for this proposition; and though that gentleman may continue to denounce the squatters on the public lands as a worthless, ill-bred set of vagabonds, I am still their friend. They are honest men, pure patriots, and upright citizens. They are worthy of our care. If the candidate can afford to flatter them for their votes, the representative should not skulk the responsibility of voting to protect their interests. I hold but one language, and it shall be the language of honest sincerity. I would scorn to flatter a poor squatter for his vote in the swamps of Louisiana, and then stand up before the American Congress as his representative, and denounce him as a worthless vagabond.

Sir, if the men are worthless the women are not, and I could appeal to the well-known gallantry of the honorable member to interpose in their behalf. If you will do nothing for the ruder sex, interpose the strong arm of the law to shield the women and children, at least, from the rude grasp of the avaricious speculator. If a man be worthless, let the appeal go up for his wife and little children. Secure them a home, and that wife will make that home her castle. It will shelter her and her little children from the rude blasts of winter, and the rude blows of a wicked world. She will toil there for bread, and with her own hand plant a shrub, perchance a flower. She will make it useful by her industry, and adorn it by her ingenuity. Give it to her, sir, and she will invoke such blessings on your head as a pious woman alone can ask.

I thank the gentleman from Louisiana, not for his speech, but for his courtesy in giving me a part of his time in which to reply.



## TEXAS AND NEW MEXICO.

SPEECH IN THE HOUSE OF REPRESENTATIVES, AUGUST 8, 1850, ON PRESIDENT FILLMORE'S MESSAGE CONCERNING THE TEXAN BOUNDARY.

Mr. BROWN said:—When the President's message was read at the clerk's desk on Wednesday, it struck me as the most extraordinary paper which had ever emanated from an American President. I have since read it carefully, and my first impressions have been strengthened and confirmed.

The document is extraordinary for its bold assumptions; extraordinary for its suppression of historical truth; extraordinary for its war-like tone; and still more extraordinary for its supercilious defiance of southern sentiment.

The President assumes that to be true which covers the whole ground in controversy, and to do this he has been driven to the necessity of suppressing every material fact; and having thus laid the basis of the message, he proceeds to tell us what are the means at his disposal for maintaining his positions; and winds up with a distinct threat, that if there is not implicit obedience to his will, these means will be employed to insure the obedience which he exacts.

Kings and despots have thus talked to their subjects and their slaves, but this is the first instance when the servant of a free people, just tossed by accident into a place of power, has turned upon his masters, and threatened them with fire and sword if they dared to murmur against his imperial will.

The President sits down to address his first important message to Congress, and, as if forgetful of his position, and mistaking this for a military, instead of a civil government, he tells us he is commander-in-chief of the army and navy of the United States, and of the militia of the several states when called into actual service. He next proceeds to inform us that all necessary legislation has been had to enable him to call this vast military and naval power into action. No further interposition of Congress is asked for or desired. His duties are plain, and his means clear and ample, and we are told with emphasis, that he intends to enforce obedience to his decrees.

A stranger, who knew nothing of our institutions, might well have supposed, from the reading of the message, that the President was a military despot; and to have seen him striding into the House of Representatives with a drawn sword, pointing first to the army, and then to the navy, and then to the militia, one, by a very slight transition, might have supposed himself in the presence of Oliver Cromwell, instead of Millard Fillmore. Why, sir, this redoubtable military hero, who "never set a squadron in the field, nor does the division of a battle know more than a spinster," talks as flippantly to Congress and the people about commanding the army and navy and militia of the United States, as if he were a conquering hero addressing his captives, instead of a civil magistrate making his first obeisance to his superiors.

Am I to be told by the friends of the President, that no threat was

implied in his late insolent and insulting message—that he did not mean to threaten or menace Texas or the South, by the language employed in that paper? Then why inform us that he is commander-in-chief of the naval and military power of the government? Why buckle on his armor? Why present himself here panoplied, as if for war, if his mission was one of peace? Was it necessary for the information of Congress, or of the country, that the President should tell us that he is the constitutional commander-in-chief of the army and navy? Why tell us with so much of precise detail, what laws were in force amplifying his powers under the Constitution, if he did not mean to intimidate us? Why, sir, did he inform us that his duty was plain, and his authority clear and ample, if he did not mean to close the argument, and rely upon the sword? The whole scope and purpose of the message is clear and palpable. It was intended to drive Texas and the South into meek submission to the executive will. Instead of entering into a calm and statesman-like review of the matters in controversy, he leaps at one bound to his conclusions—asserts at once that Texas has no rightful claim to the territory in dispute. He plants his foot, brandishes his sword, and, in true *Eurioso* style, declares that—

"Whoso dares his boots displace,  
Shall meet Bombastes face to face."

Well, sir, we shall see how successful this display of military power on the part of the illustrious "commander-in-chief of the army and navy" will be in bringing the South to a humiliating surrender.

If there be any one here or elsewhere, Mr. Chairman, who supposes that the President has acted properly in this matter, let me speak to him calmly. Is there an instance on record where a friendly power has gone with arms in his hands to treat with another friendly power? Texas is not only a friendly power, but she is a state of this Union, allied to us by every tie, political, social, and religious, which can bind one people to another. Her chief magistrate has witnessed with pain and sorrow, an attempt on the part of this government to wrest from his state a portion of her territory. He thinks the President may not be cognisant of these transactions. He knows it is being done without authority of law; and what course does he take? He writes to the President a respectful note, informing him, in substance, that an officer of the army, stationed in Santa Fé, had interposed adversely to the authority of Texas, and was fomenting discord, and exciting the inhabitants to rebellion. He made a respectful inquiry, as to whether this officer was acting in obedience to the will or wishes of the President. Now, sir, how was this inquiry answered? Did the President make a respectful answer to a respectful inquiry? No, sir. He goes off in a blaze of military fire; points to his military trappings—"Here is my army, here is my navy, and there is the militia; my mind is made up; I do approve of the conduct of my civil and military governor in Santa Fé; and if you attempt to displace him, or question his authority, war, war, war to the knife, will be the consequence." Such, sir, is my reading of the President's message. Was there ever such a beginning to a friendly negotiation? Suppose Great Britain had sent a military force to take possession of our northeastern territory or of Oregon, and the British officer in command had issued his proclamation calling the

inhabitants together to make and establish a government adverse to the United States, and in total disregard of her claim; suppose that, on seeing this, the President of the United States had addressed a respectful inquiry to the British government, to know if this proceeding was approved; and then, sir, suppose the British Minister had replied, "Her majesty has so many ships of the line, so many war-steamers. Her military resources are thus and so. She approves of the conduct of her officer in Oregon or in Maine. Her duty is plain, and her means ample for maintaining the authority she has assumed." What, let me ask you, men and patriots, would have been thought of conduct like this? Would the American President have dared to outrage the sentiment of his country by pocketing such an insult, and then proceeding with the negotiation? If he had, is there one man in all this broad land who would not, with his last gasp, have heaped curses and imprecations upon his head? And shall this government force an insult upon Texas, a sister of the confederacy, which she would not and dare not take from any power on God's earth?

I know not what course Texas may think it her duty to take in this emergency. But, sir, if she strike for her honor—if she strike for her altars and her firesides—if she strike for liberty and law, I warn her oppressors that she will not strike alone.

But, Mr. Chairman, I have said that the President has virtually taken this question of the disputed boundary between Texas and the United States out of the hands of Congress, and has assumed, by an executive *pronunciamiento*, to settle the whole matter adversely to Texas; and I will show that he means this, if he means anything.

As for anything which appears in the message, Texas never had a shadow of claim to any part of the country in dispute. The President is particular in stating that the country was a part of New Mexico prior to the treaty of Guadalupe Hidalgo, and recites at full length the fifth, eighth, and ninth articles of that treaty, to show that the country belongs to the United States, and that he is bound to protect it by military power. But he wholly omits to say anything of the grounds on which Texas bases her claim; not one word of her revolutionary rights; nothing of her treaties with Mexico; not a syllable about her boundary as defined in her constitution of 1836; no reference to the negotiations which led to her annexation; nothing of the opinions of his predecessors and their cabinets, recognising the rights of Texas within the boundary as prescribed by her constitution; and lastly, no mention of the crowning act of annexation—the resolutions of March 1, 1845, by which the star of her existence was blotted out and her political institutions buried in those of the United States.

If Mr. Fillmore had thought it worth his while to look into these matters, he would have found his duty not quite so plain, nor the obligation quite so imperative to use the naval and military power of this government to crush Texas, if she dared to assert her rightful claim to the country in dispute.

I commend the history of this transaction to the President and his advisers before they commence hanging the Texans for treason. Perhaps it may be found that Texas acquired some rights by her revolution and by her treaty with Santa Anna. It may turn out that she placed the evidence of her rights on record in the enduring form of a written

constitution. It may appear that these rights were recognised by every department of this government in its negotiations and debates on the treaty of annexation. It will most certainly appear that these rights were solemnly recognised by this government in the final consummation of that treaty. By the resolutions of annexation, approved March 1, 1845, it was provided, among other things, that all that part of Texas lying south of thirty-six degrees and thirty minutes north latitude, should be admitted into the Union with or without slavery as the people might elect; and in all that part lying north of the said parallel of thirty-six degrees and thirty minutes, slavery should be prohibited. Now, sir, what does this language mean, and why was it employed? Texas, as we all know, had defined her boundaries; she fixed her western limits on the Rio Grande, from its mouth to its source, and she extended her northern limits to the parallel of 42°. Hence, when she asked admission into the Union, there was no dispute between her and the United States as to where her boundaries were. She presented herself with fixed boundaries, and we took her as she was. By a solemn compact, as binding in its forms as a treaty between nations could make it, and as plain in its terms as our language could express it, we accepted her, and shaped her policy through all after time on the subject of slavery. Her territory north of 36° 30' was to be free, and all south of that line was to be slave territory. Such was the contract between Texas and the United States—the only contracting parties. Texas presented herself bounded on the west by the Rio Grande and on the north by the 42d parallel, and we took her as she presented herself. We had either to do this or not take her at all. All the debates, all the negotiations, all that was written or said on the subject pending the treaty of annexation, shows that this was the understanding of both parties. True, there was an outstanding dispute between Texas and Mexico about the separate or independent existence of Texas. Mexico denied the nationality of Texas. The United States admitted it; and treated with her as a sovereign. Mark you, Mexico did not dispute with Texas about a boundary, but about her separate national independence. We admitted Texas, by a treaty entered into between her and the United States, into the Union of these states, and we undertook to defend, to protect and maintain her against Mexico. We did this in good faith—we went to war with Mexico. That war resulted in Mexico giving up all the territory that lay within the limits of Texas, as defined by herself, and in her ceding other vast tracts of country to the United States. Now, sir, what do we hear? Why, that certain territory within her constitutional limits at the period of annexation, never did belong to Texas; but that it was an integral part of Mexico. And though we assumed to say how much of it should be free and how much slave territory, it was in truth and in fact foreign territory. By what right did the American Congress undertake to say that so much of Mexican territory as lay north of 36½° should be free, and all below that slave territory? Congress undertook no such thing. We all thought then, as I think now, that the country belonged to Texas; and we consulted with no one else—contracted with no one else in regard to it.

The President has with great care traced out the line between the United States and Mexico, as defined in the treaty of Guadalupe Hidalgo, and has dwelt on the fifth, eighth, and ninth articles of that

treaty with great apparent unction, as sustaining his position of hostility to Texas. Sir, what had Texas to do with that treaty? What matters it with Texas as to what contract the United States may have made with Mexico? Time was, when Texas was a sovereignty among the nations of the earth; we so acknowledged her; we contracted with her in that capacity:—what she demands to-day is, that you fulfil the contract made with her. She is no party to your contract with Mexico; she demands good faith in the execution of that contract by which you obtained her sovereignty, and agreed to protect her against Mexico;—she protests against your protecting her against Mexico, and dismembering her yourself.

When, Mr. Chairman, the President was telling us what were his duties under our treaty with Mexico, I pray you, was it not his duty to have told us what were his duties under the treaty with Texas? And when he was dwelling with so much delight upon the three articles of the treaty of Hidalgo, as the law which he was going to enforce with fire and sword, was it not worth his while to have made some passing notice of the treaty of 1845 with Texas? Or has it come to this, that a Free-Soil President feels under no obligations to execute a contract with a slave state? I suppose, with true Catholic instincts, he does not feel bound to keep faith with heretics.

Santa Fé, the country where Lieutenant-General Fillmore is going to halt his grand army, and through which, I suppose, Commodore Fillmore may be expected to sail with his naval fleet, lies not only south of the northern boundary of Texas—that is,  $42^{\circ}$  north latitude—but it is in fact south of the compromise line of  $36^{\circ} 30'$  by many miles. Not only has the President, in setting aside the legal boundary of Texas, as defined in her constitution and recognised by this government in various forms, outraged her rights, and covered at one sweep every inch of ground in dispute between the United States and Texas, but he has gone further, much further; he has established, or attempted to establish, a principle which threatens the very existence of Texas as a separate state.

What says the President? That he is bound, by the highest official obligations, to protect the Mexican inhabitants of Santa Fé or New Mexico, as he is pleased to call it, against the authority of Texas. He has announced, that if Texas attempts to assert her authority in that country, and to punish those who commit overt acts of treason against her, he will resist her with the whole naval and military power of the government. Bear in mind, that this country is within her limits, as defined by her constitution of 1836, and within the limits of the slave portion of this territory, as defined by the resolutions of annexation. Now, where does the President look for *his authority* thus to resist the authority of Texas? Not, sir, to the treaty of annexation, but to the treaty with Mexico, and to the eighth and ninth articles of that treaty. He finds here that Mexicans residing in the territory ceded to the United States by Mexico, shall be protected in their lives, liberty, property, and religion. Planting himself on these stipulations, he announces his fixed determination to defend the Mexican inhabitants against the authority of Texas. The treaty with Mexico is the only law for his government in this regard. He wholly discards and treats with contempt the treaty with Texas. He looks to but one boundary—that established by the Mexican treaty. He looks to but acquisition, and that the acquisition

from Mexico. Now, sir, what is this boundary? and what this acquisition? The boundary is the Rio Grande to the southern limit of New Mexico, thence to the Gila river, and to the Pacific. The acquisition embraces all the territory lying between Louisiana and Arkansas and the Indian territory, on the one side, and this Mexican boundary on the other. We must recollect that Mexico never recognised the independence of Texas; and when we treated with her, we treated for California and New Mexico, and Texas from the Louisiana line to the Rio Grande. The President does not respect the line of Texas, as defined in her constitution and recognised by the resolution of annexation. He kicks this line out of his way, and has announced his intention to be governed alone by the treaty of Hidalgo. He says he will resist Texan authority below the line of forty-two degrees; aye, he will resist it below thirty-six and a half degrees. I know of no other line. The President admits in his message that he does not know where the true boundary is. Then it becomes a matter of interesting inquiry where his authority is going to stop. If the only boundary known to any law as existing between the United States and Texas, is disregarded, and the President is resolved to protect all Mexicans living on territory ceded to the United States by Mexico, and it is true, as we have seen, that Texas was as much a cession, so far as the treaty of Hidalgo is concerned, as New Mexico and California; and if the President is going to protect Mexicans against the authority of Texas in Santa Fé,—I should like to know how much further down he is going to extend his protecting care. Will he go down to Austin? Will he punish as far down as Houston? May Mexicans expect the shield of his protecting care in Galveston? Is the authority of Texas everywhere to fall before the triumphant march of this most valiant hero—this commander-in-chief of the army and navy of the United States? It might economize blood, sir, if this conquering chief would only deign to fix a boundary—put up a sign-post at the point where he intends to stop hanging and chopping off heads.

Mr. Chairman, I have great respect for true and genuine heroism; but I confess myself rather restive in the presence of the bastard progeny which this slavery agitation has brought forth. When we were threatened with thirty-nine western regiments, I grew impatient; when we were threatened with ten thousand Kentuckians, led on by the great compromiser, I felt still more provoked; but when Millard Fillmore mounts his Pegasus, and attempts to drive over us with the whole naval and military power of the nation, I cannot think or speak with patience. When Jackson threatened, there was dignity in the threat. When Taylor threatened, it was not quite contemptible; but for Millard Fillmore, a mere come-by-chance—a poor little kite, who has fallen by accident into the eagle's nest—when he attempts to play the hero, and to threaten the South, one scarcely knows what limit to fix to contempt and scorn. If these feelings have a deeper depth in the human soul, let the upstart hero, not yet warm in the seat of accidental honor, know and feel that he has reached that deeper depth in the heart of every true and faithful son of the yet proud and independent South.

What, Mr. Chairman, is the meaning of all this? Why does the President disregard the most solemn obligations? Why, sir, does he manifest so much of impatience to wrest successfully from Texas that which is so justly her own, and which she never can surrender without

dishonor? And why, sir, independent of all considerations of justice and national faith, are we of the South bound to make common cause with Texas? Because, sir, you and I, and every other southern man, know that the question of slavery lies at the bottom of all these movements. That question out of the way, and the President and his cabinet, and his friends on this floor, would not care a single rush whether Santa Fé was in Texas or New Mexico. That question out of the way, and we should have no disputing about this country. The treaty obligations between the United States and Texas would be faithfully maintained, and harmony would be restored in twenty-four hours. Is it not melancholy, is it not alarming to every true patriot, to see that this war upon a section, this eternal and never-ending assailing of the South, has not only warped the judgment of the best and purest men of the North, but has so far influenced the action of the President of the United States, that he not only does not execute a treaty for the advantage of slavery, but, in dereliction of the plainest dictates of duty, absolutely refuses to do so? Can any man look at this state of things and not see the frightful end we are approaching? What was the manifest duty of the President, and in this conjuncture of our affairs—admitting that he thought, as I certainly do not, that there was reasonable grounds of dispute as to the true boundary of Texas? Was it not, sir, to have occupied the country peaceably and quietly until the question was settled—taking no advantage to himself, and giving none to the other party? I hear a voice say, That is just what he did. Not so, sir. His predecessor, General Taylor, found a military government there, and he allowed that military government to foment disloyalty to Texas, and to take incipient steps for throwing off the authority of Texas. The acting President goes further, and not only approves this conduct, but gives us to understand that he means to maintain it by force of arms. The President knows full well that if the rebels against Texas throw off her authority and establish an anti-slavery constitution, a free-soil majority here stand ready to admit her into the Union as a state. It is said that the President never threatened to use military power until Texas had first threatened. We all know, Mr. Chairman, on what state of facts the movements of Texas have been based. We all know that Texas acquiesced in your sending a military establishment to Santa Fé, under an assurance that it was not to be used against her claim, or to her prejudice; and we all know that this same military power in the hands of the President was used to subvert the authority and trample under foot the rights of Texas. Thus it was, sir, when Texas saw herself, by means like these, driven from her rightful possession, that she first spoke of force. But even then, sir, she asked respectfully what was meant by all these proceedings, and whether the President approved them; and we have already seen in what spirit that civil inquiry was responded to. Texas would be unfaithful to her past history if she feared to assert her rights, or faltered in maintaining them against whatever odds.

In what attitude, Mr. Chairman, does the northern Democracy present itself on the question of the Texas boundary? It is within your recollection, that in the memorable political contest of 1844, Texas was inscribed on all our banners; and from the loud huzzas that went up continually, I thought it was inscribed on all our hearts. Mr. Van

Buren was discarded, and Mr. Clay crippled in the affections of his friends on account of their mutual hostility to the project of annexation. Mr. Polk was nominated and elected on the issue. The measure was consummated in compliance with the people's mandate. War ensued, and the people turned out *en masse* to prosecute it to a successful termination. The first blood was shed between the Nueces and the Rio Grande; and the Democracy voted on their oaths that it was American blood shed on American soil. You defended the President through the whole of the war, always maintaining that the Texas we acquired, was Texas according to the constitution of 1836; Texas as she presented herself, and as she was accepted under the resolution of annexation. Now, where are you? Will you vote to-day as you voted in 1844? Will you vote to-day as you continued to vote through the whole of the Mexican war? And if not, why? I can understand a northern Whig who votes against the claim of Texas. He belongs to a party who was opposed to annexation; opposed to the war; opposed to the acquisition of additional territory; opposed to everything that you and I were for. But how you can oppose this claim, recognised as it has been in every form, supported as it has been by you and me through all its various forms and phases, I must confess myself at fault to understand.

There is one other matter to which I must advert. It is become quite too common of late, for certain political censors, in and out of Congress, to speak of southern men who demand justice for the South, as ultras; and if we persist in our demands, and can neither be bribed or brow-beaten into acquiescence with northern wrongs, the next step is, to whistle us down the winds as disunionists and traitors. It is not, sir, because I fear the effects of charges like these on the minds of my constituents that I now speak. They have known me for many long years; I have served them here and elsewhere; and if there is any earthly power to persuade them that I am a disunionist or a traitor to my country, I would scorn to receive office at their hands. I allude to charges like this, that I may hold them up to public scorn and reprobation. The miserable reptiles who sting the South while they nestle in her bosom, are the authors of these base calumnies. Sooner or later they will be spurned as the veriest spaniels who ever crouched at the footstool of power. I fancy, sir, that there is perfect harmony of sentiment between my constituents and myself on the subjects which now divide the North and the South. We are southerners and go for the Constitution, and the Union subordinate to the Constitution. Give us the Constitution as it was administered from the day of its formation to 1819, and we are satisfied. Up to that time Congress never assumed to interfere with the relation of master and servant. It extended over all, and gave to all equal protection; give it to us to-day in the same spirit, and we are satisfied. Less than this we will not accept. You ask us to love the Constitution, to revere the Union, and to honor the glorious banner of the stars and stripes. Excuse me, gentlemen; but I must say to you, in all candor, that the day has gone by when I and my people can cherish a superstitious reverence for mere names. Give us a Constitution strong enough to shield us all in the same degree, and we will love it. Give us a Union capacious enough to receive us all as equals, and we will revere it. Give us a banner that is broad enough to cover us as a nation of brothers, and we will honor it. But if you offer us a broken



constitution—one that can only shield northern people and northern property—we will *spurn it*. If you offer us a union so contracted that only half the states can stand up as equals, we will reject it; and if you offer us a banner that covers your people and your property, and leaves ours to the perils of piracy and plunder, we will trample it under our feet. We came into this Union as equals, and we will remain in it as equals. We demand equal laws and equal justice. We demand the protection of the Constitution for ourselves, our lives, and our property. Wherever we may be, we demand that the national flag, wherever it may wave, on the land or on the seas, shall give shelter and security to our property and ourselves. These are our demands: will you comply with them? You have the power to grant or refuse them. Grant them, and our feelings of harmony and brotherhood will be restored. These evidences of decay that we witness all around us will vanish, and a strong, healthy, vigorous national prosperity will spring up. I shall not predict the consequences of your refusal; they are so plain that “a wayfaring man though a fool” cannot mistake them. They exhibit themselves in a thousand different forms—in the divisions of our churches, in the estrangement of family ties, in jealousies between the North and the South, in the gradual but certain withdrawal of all confidence and fellowship between the people of the two great sections. Where is the patriot heart that has not throbbed with the deepest anxiety as from day to day the growth and progress of these things has become more apparent? I will not dwell upon a theme so full of melancholy; but allow me to add, in conclusion, I sincerely hope your conduct may not force us in the end to say, We once were brothers, but you have become our enemies and we are yours.

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## SLAVERY QUESTION.

SPEECH IN THE HOUSE OF REPRESENTATIVES, AUGUST 29, 1850.

MR. BROWN said he designed to make a few remarks only in reply to the gentleman from Illinois [Mr. McClernand], and the gentleman from New York [Mr. Brooks], who had just taken his seat. Both these gentlemen had taken a position which had been assumed since the beginning of the session by many gentlemen from the Northern States, and had put forth views which they seemed to regard as likely to obtain the favor of the South. If these gentlemen (said Mr. B.) were right in supposing that we of the South are mere shadows, occupied only in the pursuit of shadows, then they might succeed in the object at which they aim. But if we are real, substantial men, things of life and not shadows, then they will find themselves mistaken in their views. What was it the South had demanded? She had asked to be permitted to go into these newly-acquired territories, and to carry her property with her, as the North does; and he desired to tell his friends from Illinois and from New York, that she would be satisfied with nothing less than this. It was in vain to tell the people of the South that you will not press the

proviso excluding slavery, because circumstances are such as to exclude slavery without the operation of this provision, and therefore it is not necessary to adopt it. He would tell gentlemen who use this argument, that the southern people care not about the means by which slavery is to be excluded. They will not inquire whether nature is unpropitious to the existence of slavery there, while they know that the whole course and desire of the North has been with a view to its exclusion from the shores of the Pacific. It was only necessary to look at the history of the last few years to satisfy ourselves that it has been the purpose of the North to produce this exclusion.

The honorable gentleman from Illinois had administered a well-deserved rebuke to the factious spirit of free soil, as manifested in the proposition of the gentleman from Ohio [Mr. Root]; for that he (Mr. B.) felt as profoundly grateful as any other man. It was a spirit which ought to be rebuked everywhere. It deserved the universal execration of all good men. But it was his duty to say to his honorable friend, that so much of his remarks as were directed against the proviso, on the ground that it was not necessary to our exclusion, failed to excite his (Mr. B.'s) gratitude, as they would fail to elicit the gratitude of the southern people. The gentleman from Illinois would not be informed that he had Mr. B.'s highest respect as a gentleman, and his sincere personal regard—but, as a southern man, he felt bound to say, at all times, and on all occasions, to all persons, friends and foes, that he and his section demanded as a right an equal participation in all these territories, and they could not feel grateful to any man who placed his opposition to the proviso on no higher grounds than that they were excluded by other means. If his honorable friend had placed his opposition to the proviso on the grounds that the South had rights, and that those rights ought to be respected, then Mr. B. and the whole South would have felt a thrill of gratitude which none of them would be slow to express. If the proviso was wrong, it ought to be opposed on the high ground of principle, and not on the feeble assumption that it was unnecessary. To oppose it on the ground that it was not necessary, was to say in effect that it would be sustained if it was necessary.

The gentleman from New York had just informed the House that he was elected as a Wilmot proviso man, and now he rises and makes it his boast that he is backing out from the position he then assumed.

MR. BROOKS (Mr. Brown yielding) said, that although this proviso was made a test, he had told the people who elected him that he would not pledge himself to vote for it; that he was willing to remain at home, but that, if he was elected, he must go as an independent man.

MR. BROWN resumed. The gentleman from New York had certainly taken high ground. But, if he was not mistaken, that gentleman was the editor of a daily paper in New York (the Express), and in that journal, unless he was again mistaken, the Wilmot proviso had been supported. The gentleman, therefore, had not left much room for doubt as to his real sentiments. There was very little occasion for him now to come forward and to say whether he was for or against the proviso. But he desired to ask that gentleman, whether he was for or against this proviso when its adoption was deemed necessary for the exclusion of slaves from the new territories? If he was then in favor of the proviso, the fact that he is now opposed to it, because he is satisfied that the

South cannot carry her slaves thither on account of the hostility of the climate and soil, and other more potential causes, his position was one not calculated to excite the gratitude of the friends of the South.

Mr. BROOKS (Mr. Brown yielding) said, he had not changed one principle, but he had been converted to the gentleman's doctrine of non-intervention, or non-action. It had always been his opinion that the power of the general government ought never to be exercised, whether in favor of or against slavery. If the South should suffer from her inability to carry her slave property into these territories, the North would suffer still more if she was permitted to do so, because her citizens would not consent to go to these territories if slavery existed there.

Mr. HOLMES. I congratulate the whole country that the gentleman from New York has given up his adhesion to the Wilmot proviso.

Mr. BROWN (resuming). The conversion of the gentleman from New York to the doctrine of non-intervention had come about as much too late as his abandonment of the Wilmot proviso. They were both too late to do any good. If the gentleman had kept his hands off slavery before the last presidential election, then, indeed, the southern people might have had some reason for gratitude. But, instead of doing that, the gentleman adheres to the proviso until it is too late for non-intervention to do any good, and then he forsakes the former and becomes a convert to the latter.

The gentleman from New York appeared to be greatly horrified at what he was pleased to call political associations on this floor—at the strange phenomenon of the two great extremes of the North and the South voting together. He would explain this apparent inconsistency. The South regarded the whole of the territory to latitude 42° and east of the Rio Grande as the property of Texas, and was not disposed to permit any portion of that territory to be surrendered for the purpose of being made free soil. This was the position occupied by the southern extreme. The northern extreme considers the title of the United States to all this territory as clear beyond dispute, and therefore are opposed to purchasing it. This is the reason why the two extremes are acting together on principles apparently antagonistical, for the purpose of defeating this bill. Is it remarkable that he (Mr. B.) and his southern associates, believing conscientiously that the title to the country, in the language of the gentleman from Kentucky [Mr. Marshall], is in Texas, and that the United States has neither title nor color of title, should refuse to give it up? Is it strange that other gentlemen, believing, as they say they do, that the title of the United States is clear and indisputable, should refuse to pay Texas ten millions to withdraw an unfounded claim? Gentlemen may pretend to marvel at this singular political conjunction, but they all know perfectly well the motives which have produced it.

He, however, deemed that it would be found quite as remarkable a political phenomenon that the gentleman from New York, and many of his political friends from the South, should be found cheek-by-jowl with these same detested Free-Soilers on another question. We vote with them from exactly opposite motives, as the gentleman and the whole country very well know. But from what motive does the gentleman and his southern friends vote with them for the admission of California? Is there any opposite motive there? None, sir, none. There is one

motive common to them all, and that is, the admission of a free state into the Union. The gentleman expresses special wonder that we are found voting with the Free-Soilers. Can he give any other reason than the one just assigned why he and his southern friends vote with them on another question?

Until the gentleman could assign some satisfactory reason why he and his party, North and South, were found in political fellowship with every Free-Soiler and Abolitionist in the land for the admission of California, it would be modest to suppress his wonder at the accidental association of Free-Soilers and southern gentlemen on the boundary of Texas.

The difference between us (said Mr. B.) is this: we act with them from extremely opposite motives; you from concurrent opinions and sentiments; and we will leave to posterity and the country to decide which stands most justified in the eyes of all honest and impartial men.

But his main object in rising to address the House was to say what were the demands of the South. She asks for an equal participation in the enjoyment of all the common property; and if this be denied, she demands a fair division. Give it to her, give it by non-intervention, by non-action, or by any other means, and she will be satisfied. This is her right, and she demands it. But if, instead of doing this, the North insists on taking away the territory and abridging the rights of the South, she will not submit to the wrong in peace, nor meanly kiss the hand that smites her. He uttered no threat, but it was his duty to say that the South could neither forget nor forgive a wrong like this. She cannot forget that these new territories were purchased in part by her blood and treasure, and she will not forgive the power that snatches them from her. He had never undertaken to say what course the South would feel it her duty to pursue on the consummation of her unjust exclusion from these territories, but he would say, that the act of her exclusion would sink like a poisonous arrow into the hearts of her people, and it would rankle there, and in the hearts of their children, as long as the union of these states continued. The consummation of northern policy may not produce an immediate disunion of these states; but it will produce a disunion of northern and southern hearts; and he left it to others to say whether a political union under such circumstances could be long maintained, or whether it was worth maintaining.

It can excite no feeling of gratitude that the gentleman from New York [Mr. Brooks] says he is now opposed to the Wilmot proviso. He is for the spirit of the proviso. He would be for its letter, if it was necessary for our exclusion. He consents to abandon it simply because it is useless. There was a day when it was potential. Then the gentleman was for it. Now, when he supposes our exclusion almost perfect, and the means at hand for its entire consummation, he magnanimously abandons the proviso. Wonderful liberality! Amazing generosity to the South! If the gentleman is not canonized as the most generous man of his age, surely gratitude will have failed to perform her office.

We of the South well understand the means employed for our exclusion. This proviso, once so much in favor with the gentleman from New York, now so graciously abandoned, performed its office. It was held in terrorem over California: southern property, termed as property always is, was kept out of the country. The column of southern emigra-

tion was checked at the onset—whilst every appliance was resorted to to swell the column of northern emigration. Every means was resorted to which political ingenuity could devise and federal power make effective, to hurry on this emigration, and then, with indecent haste, the emigrants, yet without names or habitations in the country, were induced to make a pretended state constitution, and insert in it the Wilmot proviso. The gentleman need not be told how far the federal administration was responsible for these things. He need not be reminded that he and his quondam proviso friends were prominent actors in all these scenes. Need he be told that the proviso was the SHIBBOLETH of their power? It was used so long as it was effective. It was used for our prostration, and now it is thrown aside for no better reason than that it is useless—that it is no longer necessary.

Does not the gentleman from New York know very well that the California constitution is no constitution until adopted by Congress? Does he not know that that constitution contains the proviso? Does he not know that the proviso is powerless in that constitution until sanctioned by Congress? And does he not mean to vote for that constitution, with the full intent and purpose of giving vitality to that proviso? With how much of liberality—with how much of justice to the South, does the honorable gentleman come forward to assure us that he is against the proviso? The gentleman is opposed to ingrafting the proviso on the territorial bills for Utah and New Mexico; and we thank him for his opposition. But what reason does the gentleman give for this opposition? The decrees of God have already excluded us. He has no idea that slavery would ever penetrate the country. He is opposed to the proviso, because it is unnecessary. If it was at all necessary for our exclusion, the honorable gentleman would be for it. He must excuse us if our gratitude fails to become frantic for this singular exhibition of forbearance and liberality.

Mr. Brown was willing to trust the rights of the South on the strict doctrine of non-intervention. If God, in his providence, had in fact decreed against the introduction of slavery into Utah and New Mexico, he and his people bowed in humble submission to that decree. We think the soil and climate are propitious to slave labor; and if they are not, we shall never seek the country with our slaves. All we ask of you is, that you will not interpose the authority of this government for us or against us. We do not fear the Mexican laws, if you will in good faith stand by the doctrine of non-intervention. We will risk the protection of the Federal Constitution, and the banner of the stars and stripes, for ourselves and our property. All we ask of you is, that you will in good faith stand neutral.

He had never announced his purpose of voting against the territorial government for Utah. He meant to vote for it, and he should vote for the territorial government for New Mexico if the boundary was so arranged as to respect the rights of Texas. He was opposed to the admission of California, because her constitution was a fraud—a fraud deliberately perpetrated for the purpose of excluding the South; but he was in favor of giving governments to Utah and New Mexico on the ground of strict non-intervention. He did not want to be cheated in this business, and he therefore proposed this question to the honorable gentleman from New York: Suppose we pass these Utah and New

Mexican bills at this session without the Wilmot proviso; and suppose the Southern people commence moving into the territories with their slaves, and it becomes apparent that they are to be slave territories and ultimately slave states; and suppose that the gentleman from Ohio [Mr. Root], at the opening of the next Congress, offers the Wilmot proviso with a view to check our emigration and to exclude us from the territories with our slaves, will the gentleman, if a member of Congress, then vote for the proviso?

Mr. BROOKS replied in the negative, as far as he was heard.

Mr. BROWN. Then if we take our slave property into the territories, we are assured that we are not to be disturbed in its peaceable and quiet enjoyment by any act of this government.

Mr. BROOKS said, that if he should be here he certainly should not vote to repeal any territorial bill for which he had voted. He only spoke for himself.

Mr. BROWN was gratified to hear this statement; whilst he could not insist on the gentleman answering for the North, he must express his regret that he did not feel authorized to answer at least for his political friends. The gentleman had answered manfully, and, he did not doubt, sincerely; and if the whole North, or a majority even, would answer in the same way, it would go far towards restoring harmony. He asked honorable gentlemen whether they were ready to pipe to the tune set them by the gentleman from New York? If they were, the whole South would listen. It was a kind of music they liked to hear from the North. There was in it more of the gentle harp, and less of the war-bugle than they had been accustomed to from that quarter.

Mr. BROOKS said, it appeared after all that there was no essential difference between them.

Mr. BROWN. So far as this Congress is concerned, we ask nothing more than that we shall be treated as equals, and that no insulting discrimination should be made in the action of Congress against slave property. If the gentleman agrees to this, there can be no essential difference between us.

Now, Mr. Speaker, to the subject of the Texas boundary. Is there one man in this House, or throughout the nation, who does not know that but for the question of slavery, there would be no such question as that of the Texas boundary? Suppose, sir, that Texas and New Mexico were both as clearly slaveholding countries as North and South Carolina, how long, sir, do you think it would take this Congress to fix a boundary between them? Not one hour—certainly not one day. Of what consequence could it be to the North, whether Texas extended to the 32d or to the 42d degree, or to any intermediate point? Take out the question of slavery, and of what consequence is it where the boundary of Texas may be fixed? Does any man suppose that the money-loving men of the North would vote ten millions of dollars from a common treasury to buy a slip of soil from a slaveholding *State*, simply to give it to a slaveholding *Territory*? No, no. We all understand this matter. If the country is left in the possession and ownership of Texas, it must be slave territory, and if it is given up to New Mexico, you mean that it shall become free territory, and you do not intend to leave any stone unturned to accomplish this end. We know this, and we govern ourselves accordingly. Let northern gentlemen speak out on this subject.

The thin covering, that they want to do justice between Texas and New Mexico, furnishes a poor disguise to the real purpose. We all know that slavery restriction is the lever with which you are lifting the title of Texas off this country, and giving it up to New Mexico; and we all know that you are attempting to do this without right, or color of right, to perform such an act.

Mr. McCLEARNAND (Mr. Brown yielding) said, that Texas claimed the Rio Grande for its whole extent to be her western boundary. By the resolutions annexing Texas to the United States, slavery is interdicted north of  $36^{\circ} 30'$  within her professed limits. The amendment proposed by the gentleman from Kentucky (Mr. Boyd) provides that slavery may exist in any portion of the territory west of the boundary of Texas, as proposed by the Senate bill, between  $32^{\circ}$  and  $38^{\circ}$  north latitude, east of the Rio Grande. That is, the amendment provides that slavery may exist in any part of said territory, according as the people inhabiting it may determine for themselves when they apply for admission into the Union. So that to the extent of so much of said territory now claimed by Texas, lying between  $36^{\circ} 30'$  and  $38^{\circ}$  north latitude, the South, according to the test of my able and worthy friend from Mississippi, stands upon a better footing under the amendment proposed than she does under the resolutions of Texas annexation.

Mr. BROWN resumed. If we are left in that condition in which we were by the annexation resolutions, we are satisfied. What we ask in regard to Utah, New Mexico, and California, is, that the North will not, by means direct or indirect, disturb us then in the quiet enjoyment of our property. What we ask in regard to Texas is, that you will abide by the resolutions of annexation. We are satisfied with the contract, and we are opposed to making any other. This contract gives us all south of  $36^{\circ} 30'$  as slave territory, and dedicates all north of that line to free soil. We stand by this. If gentlemen want to buy from Texas her territory north of  $36^{\circ} 30'$ , let them do it. They had his full consent to give her ten, twelve, or fifteen millions of dollars. He should interpose no objection. But when it came to selling out slaveholding Texas with a view of enabling the North to make New Mexico a non-slaveholding state the more readily, he felt it his duty to interpose by all the means in his power. He never meant to give his vote for any proposition or combination of propositions which looked to the deprivation of Texas of one inch of her rightful soil. He wanted to deal fairly by all parts of the country. He trusted he should be as ready to act fairly by the North as by the South, but he invoked the vengeance of Heaven if ever he gave his vote for any bill or proposition to buy the soil of a slave state to convert it into *free soil*.

## THE EWING INVESTIGATION.

In the House of Representatives, Wednesday, September 11, 1850,—On the report of the Select Committee appointed April 22, 1850, to examine into certain official acts of Thomas Ewing, late Secretary of the Interior, and in reply to Mr. VINTON of Ohio, Mr. BROWN said:

**MR. SPEAKER:** It is with extreme reluctance that I venture, at this late period of a protracted session, to address the House. I feel called upon, however, by an imperative sense of duty, to make a brief response to the speech which the honorable gentleman from Ohio [Mr. Vinton] has just now concluded, and to that end I crave the indulgence of the House.

Before proceeding to the consideration of the subjects embraced in the report and resolutions, allow me to advert for a moment to the manner in which that report and the accompanying resolutions were received in this House.

Now almost five months since, a series of resolutions were passed by the House of Representatives directing an inquiry into the official conduct of the then Secretary of the Interior, Thomas Ewing. A select committee was appointed, and they were charged with the direction and prosecution of these inquiries. They entered upon the discharge of the duties assigned them. It was then spring, the summer has come and gone, and here in the beginning of autumn your committee have concluded their labors. They bring their report, and lay it upon your table, and through their chairman they ask for it that courteous and respectful consideration which has been uniformly awarded to all reports coming from committees of this House. They ask that the report may lie upon the table and be printed, and that a day may be fixed for its consideration. This has been denied. A judgment is evoked in advance of all consideration or reflection; without reading, without printing, before a single member has had an opportunity of examining the report, a judgment is asked. On its first introduction into the House, the gentleman from Ohio, himself a member of the committee, calls upon the House to pass its judgment. How well he has succeeded in this, the House and the country already know.

Why, sir, was the gentleman from Ohio so impatient to have this report acted upon, or rather slurred over? Was there any important public interest suffering, or likely to suffer by a little delay? No, sir; another and a very different interest was to be protected by smothering this report. The conduct of a distinguished friend, political and personal, of the gentleman, had been criticised and justly censured; important and startling facts had been brought to light. The existence of these facts was wholly inconsistent with the idea of a faithful and proper administration of the Department of the Interior, and it was necessary to give them the go by—to bury them, if possible, among the unpublished and useless papers which accumulate during a long session of Congress. The gentleman was familiar with all the facts. He had attended upon the committee for more than four months. He knew



what the report and the papers contained; and I take it upon myself to say, that in opposing the motion to print, and in insisting upon bringing the House to an immediate vote on the resolutions, he took a course which his experience assured him could result in nothing less than an acquittal, without a trial, of Mr. Ewing.

Mr. VINTON said he had insisted upon an immediate consideration of the report because to postpone it would have been equivalent to doing nothing, as it would never again have been reached.

Mr. BROWN. That excuse shall not avail the gentleman. If he had been anxious to have a fair hearing, why not have asked to make the subject the SPECIAL order for some subsequent day? Then it would have certainly come up for consideration. No, sir, the gentleman's knowledge of the facts assured him that it would not do to risk a fair investigation, and his tactics were employed to hurry on a decision before the House could be informed of these facts. The gentleman knew very well that if members could be forced to a vote without a knowledge of the facts, they would acquit the Secretary. They would do this on the well-known ground that all men are presumed to be innocent until their guilt is established. His legal acumen was not severely taxed to discover that if the facts could be withheld until a vote could be exacted, the presumption of innocence would be strongly in favor of the accused.

Mr. VINTON said, he had consented to the printing of the report.

Mr. BROWN. I know that; I know the gentleman made a virtue of necessity, and consented to have the report printed after his course had been assailed by the chairman of the committee [Mr. Richardson]. But what was the gentleman's first movement? To oppose any postponement of the subject, even to allow the report to be printed. He succeeded in defeating the postponement, and we have been actually forced into the consideration of the whole subject, and are now considering it, when not a member, save those on the committee, has ever seen the report or knows anything of the real state of the facts. The gentleman now makes a merit of consenting to have the report printed. In the course of some days it will have been published. In the mean time the House will be called on to vote. We shall have the verdict first, and the evidence submitted to the jury afterwards. This, to say the least of it, will be rather an irregular proceeding.

The gentleman, with the adroitness of a politician of twenty or more winters, laid his whole scheme so as to give it the best possible assurance of success. It is far from my purpose to charge the gentleman with dishonorable conduct. But really, sir, there is something about this transaction which excites my curiosity, and seems to invite the most rigid scrutiny. The gentleman from Ohio will correct me, if I err in my relation of the facts. He went to the chairman of the committee and obtained the report of the *majority* before its delivery to the House, as he said (and no doubt truly), to prepare a minority report. It became important to have the report copied, and though the capitol was full of clerks, and though the streets were crowded with persons seeking employment, the gentleman could find no one to copy this report but young Mr. Ewing, the son of the ex-Secretary, whose conduct had given rise to and had been criticised in the report. The first we hear of the report, it is in the hands of Mr. Ewing; next Senator Mason, of Virginia, has it; and then a copy is handed round among the Virginia

members on this floor. All this was before the report had been made to the House, and without the knowledge of the chairman or any member of the majority of that committee. Now, sir, I want to show the effect of this proceeding.

Mr. VINTON. I have already stated that I had nothing to do with furnishing the Virginia members with copies of that report.

Mr. BROWN. I recollect the gentleman's disclaimer, and do not mean to impugn his veracity. He placed the report in the hands of young Mr. Ewing; he, of course, showed it to his father, and he to the Virginia senators and representatives. The gentleman gave it a particular direction, and he was shrewd enough to know where it would land. But why, you are ready to ask, was it shown to the Virginia members? I'll tell you, Mr. Speaker; a particular object was to be accomplished. *The report was to be smothered.* The gentleman was all-powerful with his Whig friends. He could bring them up to the work with a pretty united front. There might be some bolters, however, and if there was not, the party was a little too weak to carry out the scheme. Besides, it would give the whole thing a partisan look, if the Whigs went in a body for smothering, and the Democrats against it. It became necessary to have some Democratic allies. The report contained a severe criticism on certain important Virginia interests. The gentleman, with a skill and diplomacy, worthy of Talleyrand, went to work to secure these allies in the persons of the Virginia members. The report was very quietly, if not secretly circulated among them. They saw the assault on the Virginia interests—the scheme took. The vote was taken; the great body of the Whig party voted with the gentleman, and all the Virginia Democrats went over to his standard. He carried his point, and here we are precipitated into a discussion, before anybody save the favored few, have seen the report or know anything of its contents.

(Here Messrs. Seddon, Millson, Bayly, and McMullen, all of Virginia, severally interposed, and said that they had not been influenced in the votes given by anything said in the report against the Virginia interests.)

Mr. BROWN resumed. I certainly never meant to say that honorable gentlemen would knowingly and wilfully give an improper vote merely for the sake of sustaining an unjust local claim. But we all know that the representative is not the most impartial judge of the rights of his own constituent. Indeed, sir, the interest of the constituent is almost inseparable from the prejudices and predilections of his representative. The gentleman from Ohio well understood this, and he rightly conjectured that if it came to the knowledge of the Virginia delegation that certain important Virginia claims had been condemned in this report, the allegiance of that delegation might be relied on.

I am far from assailing the motives of the members from Virginia; but I cannot help remarking that it is a little singular that they were found separated from their political friends on this question. It is doubtless all right and fair, but it never happened so before. If one, or two, or three had gone over, my astonishment would not have been excited. But when they went in a body, I could not help inquiring into the cause of so important and significant a movement. I acquit the delegation of all improper motives, but I still think these Virginia claims had something to do with their votes against postponing the con-

sideration of this report until such time as would afford every member an opportunity to examine into the facts.

I have been surprised, Mr. Speaker, at the grounds taken by the gentleman from Ohio [Mr. Vinton], against a further consideration of the grave and important matters set forth in the report of the majority of this committee. To my mind, it looks very much like special pleading, for the purpose of avoiding a fair trial on the merits of the case. The gentleman was a member of the committee. He attended its sittings regularly. He saw the committee toiling from day to day, through the long months of summer, in collating the facts set forth in the report. He took a deep interest in the proceedings of the committee, and participated actively in all its labors. Yes, sir, he was here when the committee was raised. He was here when the inquiries were directed by the House. He went on the committee, performed his due proportion of the work, saw the report prepared after four months and more of toil, and then for the first time he discovers that the House has no jurisdiction of the case—that the House was attempting to resolve itself into an appellate court for the revision of *judicial* decisions made by the *executive* officers of the government. Did the gentleman make this wonderful discovery himself, or was it the offspring of some other genius? Possibly the younger Mr. Ewing, when copying the report, may have found it out. It may be, that some or all of the Virginia delegation discovered it, or, what is just as likely, ex-Secretary Ewing himself may have first started the new idea. To whomsoever the paternity of the grand conception may belong, I repudiate it as spurious. What, sir! may an executive officer go on from year to year allowing spurious and unjust, grossly unjust and illegal claims against the government, and paying them too, without law or semblance of law to sanction his conduct? and must we, the representatives of the people, fold our arms in quiet, and be silent because we have no power or right to inquire into the official conduct of an executive officer? If, sir, the conduct of the ex-Secretary had not been in the highest degree reprehensible, we should have heard nothing of this plea to the jurisdiction. Conscious innocence would not thus shrink from a fair investigation. It is precisely because these transactions will not bear the light of open day, that attempts are being made, and combinations formed, to bury them in this House under the hollow pretence that we have no jurisdiction. Why was not this discovery made five months back, when the investigation was ordered? Why was it not made during the four months and a half that the committee was sitting? Why was it never made until it was seen that an impartial investigation would result in a condemnation of these transactions?—in a condemnation which would arrest such proceedings in future, and thereby save millions to the treasury.

I now tell the House that if the conduct of the late Secretary is not distinctly rebuked, and his decisions repudiated, millions of dollars will be taken from the national treasury without law and without the knowledge or sanction of Congress. If we, the guardians of the treasury, are to stand by and witness these proceedings in silence, because the gentleman from Ohio says we have no jurisdiction, no power to arrest them, why, then, be it so; I take water and wash my hands of them.

How long is it since the gentleman from Ohio found that Congress could not inquire into the conduct of an executive officer? During

these fifteen years or more that he has held a seat on this floor, has he ever, in a single instance, voted against an inquiry into the conduct of any Democratic executive officer? Never, sir, never. I challenge the gentleman to a trial by the record, and dare the assertion that he never, in all his life, voted against an inquiry into any alleged misfeasance or malversation in Democratic office-holders. But now, when a Whig secretary is arraigned—when the personal and political friend of the gentleman is charged with illegal and improper conduct, he steps boldly forward, and says, "Stop; touch not mine anointed." You may inquire into the conduct of Democrats, but Whigs are sacred against such impertinent and officious intermeddling.

The gentleman found power in this House to appoint the "Bundelcund committee," and to send them around the world on a voyage of discovery. He could delegate to that committee power to pry into the private and official conduct of every Democrat in and out of office. He could confer upon them the right to propound impertinent inquiries to the editor of the *Union*, and to Mr. Sengstack, as to how they conducted their private affairs, as private citizens; and he could even find the power to bring these gentlemen to the bar of the House and punish them for contempt, because they refused to disclose their private transactions to the "Bundelcund" inquisition. But he can find no power in Congress to inquire whether Mr. Ewing has or has not paid money from the treasury without the sanction of law.

Mr. VINTON said he had not voted for the arrest of the editor of the *Union* and Mr. Sengstack. He did not vote at all.

Mr. BROWN. The gentleman did not vote at all. His party voted, and his judgment approved their votes. I ask him if it did not?

Again, sir, the gentleman voted last year to inquire into the conduct of the then Secretary of the Treasury, Robert J. Walker. Where did he get his authority for that? Is the official immunity of a Democratic Secretary of the Treasury less than that of a Whig Secretary of the Interior?

Mr. VINTON. That inquiry was sent to a standing committee of this House; this to a select committee.

Mr. BROWN. That is rather too refined for my comprehension. I thought the plea was to the jurisdiction—to the *power* of the House to direct the inquiry. Now, it seems the House may direct the inquiry, if it only employs the proper committee to conduct it. And pray, sir, let me ask the gentleman what powers may this House confer on standing committees, which it may not in a like degree confer on a select committee? Neither has any power other than that which it derives from the House, and either may receive all the power which the House can confer—and one of them in as high a degree as the other. The gentleman will have to look about him for some better excuse than this to justify his vote to inquire into Secretary Walker's alleged misconduct, and his speech to-day against inquiring into Mr. Ewing's official shortcomings.

But my hour is running out, and I must hurry on to a brief investigation of the facts set forth in the report itself.

And first of the case of G. W. and W. G. Ewing: Large sums of money were paid these persons, who were traders among the Indian tribes in the west. The money thus paid was clearly due from the government to the Indians. In this I agree perfectly and entirely with

the gentleman [Mr. Vinton]; but I cannot concur with him that it was rightfully paid to the Messrs. Ewing. A critical investigation of the claims of these traders cannot fail to convince every one of certain important facts: the first and most important is, that the demands were enormously large, springing up as by magic from a paltry sum of a few hundred dollars, to many thousands, and that without there having been any additional dealings between the parties. In many instances, the items composing the accounts were never given, but a demand rendered for a large sum in round numbers. In the second place, the transactions were all of an individual character; the sales, if any were made, were all made to individual Indians; whereas, the demands for payment were against the tribes or nations; thus rendering a whole people responsible, without their consent, for the foolish and improvident acts of a few individuals. Nay, more than this, it was placing the funds of a tribe of ignorant savages at the mercy of these speculators and traders. Every one knows that intelligent and shrewd white men can go among the Indians, and with a few red blankets, or with strands of beads and other trinkets, make accounts on a credit with them to any amount. And we all know, that if the United States will undertake to pay such accounts out of the trust funds belonging to the savage tribes, there will be found unprincipled men enough to present demands for millions. The third point to be considered in this matter is, that Secretary Ewing ordered the payment of these demands without sufficient proof of their justice, even against the individual Indians, and in total disregard of the rights of the savage tribes. It is true that large sums are now suspended to await the action of the House on this report. If the committee is sustained, justice will be done the Indians, and if not, their funds will be recklessly squandered in paying the demands of the Ewings, and other traders and speculators.

One of my colleagues on the committee proposes to address the House more particularly on this branch of the investigation, and to him I leave the further task of pursuing the facts and law of this case. I will not dismiss it, however, without calling attention to the position of the gentleman from Ohio.

If I correctly understood the gentleman's position, it was, that inasmuch as the government owed the money, it could make no difference whether she paid it to the Indians or to the traders. If he means by this that it makes no difference so far as the money is concerned—no difference in a pecuniary point of view, I quite agree with him. But the gentleman very well understands that there are other and higher questions involved than the mere matter of discharging a pecuniary liability. Viewed only as a question of dollars and cents, it is a little important, it is true, that the money when paid should pass into the proper hands. An error like this might be committed, and, with civilized and enlightened nations, it could be repaired by simply paying the money again. But how is it, sir, with the Indian tribes? The government has obtained their confidence; they have consented that we shall hold their funds in trust. By and by they will send up a deputation to see their great father, the President, and receive their money. They will be told that the money has been paid to white men, and they will feel cheated; distrust will take the place of confidence. They will sigh for revenge. They will fly to arms; and the next intelligence from the

west will be that the tomahawk and scalping knife have been taken up, and that our frontier settlers are flying from their homes and seeking safety. Tell me not, sir, that it makes no difference to whom the money is paid. Let the gentleman look into this matter, and he will find that the paltry question as to whether we shall pay this money once or twice sinks into insignificance in comparison with the other and greater questions of morality and safety. I hold that it is in the highest degree immoral to execute a sacred trust for an ignorant savage in a way to suffer him to be cheated by the white man. And I know, sir, it will be found highly dangerous to our frontiers to lose the confidence of these Indians, and to drive them to acts of revenge for the wrongs of the government in misapplying their money. I think, sir, that the Secretary did wrong in paying the claims of the Messrs. Ewing, and as the departments are only awaiting your action to determine whether they will pay other like demands, I hope they may be correctly advised by a vote of this House.

The second in the series of resolutions referred to the select committee, directs them to inquire "whether the Secretary of the Interior reopened and paid interest, to the amount of thirty-one thousand dollars, on the pension granted to Commodore James Barron, for services rendered in the Virginia navy during the revolutionary war, after the principal had been fully paid and discharged; and if said interest was paid, was it simple or compound; who was the agent or attorney for said claim; and the authority for such claim, if any."

This inquiry has been prosecuted, and a conclusion arrived at which seems to me to be fully justified by the facts.

It appears from the recorded evidence, that James Barron was a commander in the Virginia (state) navy, from 1775 to the close of the revolutionary war, and that he died in 1787.

In May, 1779, the state of Virginia, by an act of her legislature, promised *half pay* for life to all officers in the state and continental (ARMY) line, who should serve to the close of the war.

In 1780, she extended the benefits of this act to the officers of the navy, who should serve during the war.

It is clear, therefore, that Commodore Barron was entitled to half pay for life, or from the close of the war to his death in 1787.

In 1790, long after the close of the war, and three years after the death of Commodore Barron, Virginia, by another act, gave to officers of the army, and *they alone*, five years full pay and interest, in *commutation* of half pay for life.

The benefits of the act of 1790 being confined to officers of the army, and *they alone*, it is clear that Barron, who never was in the army, was never entitled to commutation.

And so indeed it seems to have been determined. For in 1823, his administrator, in pursuance of a judgment rendered by the superior court of Henrico county, demanded and received of the state of Virginia, \$2008.52, that being the amount of Commodore Barron's half pay for life, under the act of 1780.

To a plain man of common understanding, it would seem that here was a full settlement of the Barron claim. He was entitled to half pay, and that alone, and his administrator, thirty-six years after his death, applied for and received it in pursuance of the judgment of a court of

competent jurisdiction. It never was optional with *naval officers* to take either half pay for life, or in lieu thereof five years' full pay with interest. This was a benefit extended to officers of the army, and them alone. But suppose for a moment that officers of the navy had, by the act of 1790, been placed on the same footing with officers of the army, and that it had been left to their choice to take either half pay for life or full pay for five years and interest. Suppose, I say, that this had been the law: Did not the administrator of Commodore Barron, in 1823, make his election, and take the half pay for life? Such sir, is the recorded fact.

The truth is, that in 1823, there was no pretence set up by the representative of Commodore Barron that he was entitled to anything more than half pay for life. This was all that was claimed, and this was paid. The Commodore had been dead thirty-six years, and the state of Virginia paid off and discharged to his administrator the only demand which his administrator pretended to render against the government of that state.

The next point of inquiry is, how came the United States responsible for the debts of Virginia in this regard?

The acts of Virginia, passed in 1779 and 1780, were intended to promote the cause of independence, and they no doubt had the effect of continuing in the service many valuable officers whose private fortunes had been greatly reduced, and who, but for the assurances thus held out, would have been compelled to look for the means of subsistence in their declining years, elsewhere than in the army and navy of an impoverished colony. The act of 1790 was passed after the close of the war, and it was not, therefore, intended to promote the cause of the war. It is perfectly clear, that the liabilities incurred by Virginia under her acts of 1779 and 1780, were war debts, and properly chargeable to the account of a national revolution. It is equally as clear, that her liabilities under the act of 1790, were not incurred in promoting or assisting the cause of independence; and however creditable to her generosity and magnanimity the act may have been, the liabilities could, in no proper sense, be charged to the war debt. It was not called for by exigencies of the public service. It was, in fact, an act of generosity—a gratuity.

I by no means say that the United States ought not to perform acts of generosity—of gratuitous service. She has performed many such, and they stand to her credit. I trust she may perform many others. But did she in this instance undertake to relieve Virginia from the payment of the gratuity or the bounty promised by her in her act of 1790? She did not.

In the year 1832—fifty-two years after the act of the Virginia legislature granting half pay for life, forty-five years after the death of Commodore Barron, and nine years after Virginia had paid to his administrator the half pay for life due him at his decease—the Congress of the United States passed an act, the third section of which is in these words:—

“SECTION 3. *And be it further enacted*, That the Secretary of the Treasury be, and he is hereby, directed and required to adjust and settle those claims for half pay of the officers of the aforesaid regiments and corps, which have not been paid or prosecuted to judgment against the state of Virginia, and for which said state would be

bound on the principles of the half-pay cases already decided in the Supreme Court of Appeals of said state; which said sums of money herein directed to be settled and paid, shall be paid out of any money in the treasury not otherwise appropriated by law."

Now, sir, is there one word in this act which can be construed or tortured into a remote intimation that the United States meant to do anything more than to assume the *war debt*—the half-pay,—as described by Virginia in the acts of 1779 and 1780? There was a manifest propriety in the United States assuming this liability. It was incurred in the prosecution of a common cause, and it was right and proper it should be paid from a common treasury. But I utterly deny that this government ever did undertake to pay commutation, or anything more than the half-pay for life to officers of the Virginia navy; and if she did, I call upon the gentleman from Ohio and the gentleman from Virginia to point out the act.

I rest the case on these points:

1. Virginia undertook to pay her naval officers who served to the close of the war half-pay for life. She never did agree to give them commutation, or any other pay in lieu of this half-pay.

2. If Virginia had left it optional with naval officers, as she did with army officers, to choose between the commutation or five years' full pay and the half-pay for life, then Barron's administrator made his election in 1823, and took the half-pay.

3. The United States, for sufficient reasons, never did undertake to assume Virginia's liabilities for commutation, but only for the half-pay due her army and naval officers.

4. Virginia paid Barron's administrator his half-pay in 1823. The United States assumed the debt; and when she had returned to Virginia the \$2008.52 paid by her to Barron's administrator, the transaction was closed and the business settled.

We are next to inquire when and how this matter came to be reopened, and how it was again closed.

July 21, 1849, twenty-six years after the payment to Barron's administrator, and sixty-two years after the death of the commodore, James Lyons, of Virginia, a distinguished lawyer, and leading political friend of the ex-Secretary of the Interior, preferred a claim against the United States for commutation, or five years' full pay, with interest, *in lieu* of the half-pay received by the administrator in 1823. *This claim was promptly rejected by the Commissioner of Pensions.*

An appeal was taken by Mr. Lyons, and the case was reviewed by Mr. Secretary Ewing. *He had doubts.* Yes, sir, he had doubts, and he referred the case to Mr. Attorney-General Johnson for his legal opinion. Mr. Johnson thought the money ought to be paid, and then Mr. Ewing thought so, too; but for what reason they, or either of them, came to such a conclusion, we are left in profound ignorance. Neither has ever deigned to give the slightest intimation of the wonderful process of reasoning by which they manage to *mulct* the United States for \$32,000, and to throw this large amount into the hands of their friend, Mr. Lyons.

I have said the Commissioner of Pensions promptly refused to pay this money, and so he did. He continued so to refuse until he was peremptorily ordered by Mr. Secretary Ewing to pay it. The order was given



December-31, 1849, and seems to have been as novel in its character as it was peremptory in its tone. The Commissioner thus speaks of it in an official paper now before us:

"I accordingly certify, *under an order from the said Secretary*, that commutation of five years' full pay is due, and interest thereon up to this date. The amount of commutation is \$4258.31½; interest is to be calculated at six per centum per annum on this sum from the 22d of April, 1783, to the 15th day of December, 1823; add the amount of the interest up to December 15, 1823, to the commutation, and deduct from the total of those sums the amount paid in December, 1823, viz: \$2008.52; and upon the balance struck calculate the interest from that time up to the present date."

In pursuance of this order, the account was stated as follows:

Commutation . . . . .	\$4,258 31
Interest to December 15, 1823 . . . . .	10,385 83
Interest from December, 1823, to January 2, 1850 . . . . .	19,382 50
	<hr/>
	34,026 64
Paid by Virginia . . . . .	2,008 52
	<hr/>
Total . . . . .	\$32,018 12

This large sum was accordingly paid to Mr. Lyons. If you will be at the trouble to examine the mode of calculation, you will be at no difficulty in seeing that the interest has been compounded.

The compounding of the interest is admitted. No one pretends to deny this. Mr. Ewing says himself that it was compounded, and he informed the committee that he had called upon Mr. Lyons to refund, and that the gentleman had refused.

The decisions of this executro-judicial tribunal cannot be reviewed, we are told by the gentlemen from Ohio and Virginia [Messrs. Vinton and Bayly]. I should like to know if it is the opinion of these learned gentlemen that a court, after rendering judgment, and enforcing it too, as in this case, to a payment of the money, may then sit as a court for the correction of its own errors, and order the plaintiff to pay back the money which he has received in due course of law? And if not, how long do they think it will be before Mr. Lyons will return to the treasury the compound interest which his friend Ewing awarded him in this case? There is but one remedy for outrages like this, and that is, to hold the guilty judge up to public condemnation.

In deciding this Barron case, Messrs. Ewing and Johnson, without justice, law, or reason, overturned the uniform current of decisions of all their predecessors, and of the Supreme Court of Virginia, for nearly twenty years; and for the truth of this assertion I refer to the Virginia Reports in like cases, and to the decisions and opinions of the Secretaries and Attorneys-General since 1832.

The end of this business is found here: The United States, in 1832, undertook to pay to Virginia \$2008.42, that being the amount of Commodore Barron's half-pay for life, and in 1850 she is compelled by Mr. Secretary Ewing to pay \$32,018.12, for commutation and interest, simple and compound, a sum which neither she nor Virginia ever agreed to pay in whole or in part. If this decision is not rebuked by a vote of this House, not less than two to three millions of the public money will go in the same way.

One other point in this connection, and I shall have done with this

Barron claim. The inquiry naturally arises, where did Mr. Ewing get the money to pay this claim? It was taken, like the Galphin money, from appropriations intended for other purposes, and then Congress was asked to sanction it, by voting through a deficiency bill. No wonder this deficiency for the last year run up to four or five millions of dollars. Secretaries abstract \$32,000 for one purpose, \$56,000 for another, \$230,000 for another, and Heaven only knows how much besides. Such lawless profligacy would bankrupt the treasury, if there was a stream of liquid gold flowing into it from morning till night.

The only remaining subject of inquiry is embraced in the third resolution, and has reference to a large sum of money paid to Dr. William M. Gwin, out of a trust fund belonging to the Chickasaw tribe of Indians.

The Chickasaws inhabited the northern part of Mississippi, and in the year 1834 ceded their lands to the United States; and without entering into any minute details of their several transactions, I may state simply that the United States retained a certain part of the proceeds of the cession in trust for the benefit of the Indians. This fund was to be expended in such manner and for such purposes as the Indians should direct. In 1837 the Commissioner of Indian Affairs, and as now appears, without any sufficient authority from the Indians, despatched Lieutenant Seawright, of the army, to Cincinnati, to purchase provisions and provide transports for a party of emigrating Chickasaws, they having signified their disposition to remove West. Seawright expended for these purposes about \$144,000. The Indians received benefits to the amount of \$32,000, or about that sum, and, as the whole expenditure was without their authority, they refused to be charged with the remaining \$112,000. The officers of the treasury, however, charged the whole sum to the general Chickasaw account, and the Indians were notified accordingly.

This is the foundation, briefly stated, of the claim about which the committee were charged to inquire.

It seems that in the year 1844, Dr. Gwin, then a citizen of Mississippi and now a Senator from California, went among the Chickasaws in the West. He entered into a contract with these Indians, and was empowered by a portion of them (who professed to act for the whole) to conduct certain fiscal operations of theirs with the United States. The written agreement with the Indians was exhibited by Dr. Gwin to the accounting officers at Washington, and he entered upon and discharged some of the duties devolved upon him as the agent or attorney of the Chickasaws.

A misunderstanding sprung up concerning this agreement. It bore, among many others, the name of Ish-ta-ho-ta-pa, the King. This chief wrote to the Secretary of War that he had never signed such a paper, and that if it bore his name it was without his authority. Dr. Gwin, on having his attention called to the subject, admitted that the King did not sign the paper, but that another person, who represented that he had authority, had signed for him.

A letter signed W. A., and understood to be from William Armstrong, late General Indian Agent West, dated Choctaw Agency, 12th October, 1846, and now on file among the official papers, thus speaks of this transaction:

"I received at Nashville your letter informing me of Dr. G's movements. I was

not a little surprised to hear that he came so near succeeding in the Chickasaw claim. *The fact is, the whole affair was wrong.* I had no idea when Dr. G. first came over to the Chickasaws, what his business was."

The matter was variously canvassed, and in the end the contract was rescinded. The paper or contract seems to have been given up or destroyed, and a new contract was entered into. It was under this new contract that the claim of which I am about to speak was paid. I have spoken of the first contract only because it was the basis of Dr. Gwin's transactions with the Indians, and hence became intimately associated with the history of the case. I now dismiss it, and shall hereafter speak only of the second contract. This last paper is among the documents now on my desk; but as it is without date, I am unable to say when it was executed. It will become important in the course of this investigation to fix its date, and I shall have recourse to other testimony for that purpose.

Before entering into a further examination of this case, I must pause to settle a small account with the MINORITY of the committee. In their report I find this remarkable and strong language:

"There is no evidence whatever among the records of the department to sustain the finding of the committee that this claim was rejected by the proper officer, and reopened and allowed by the Secretary of the Interior; indeed the finding is directly contrary to the recorded fact."

In this they make a direct issue with the majority, and I shall have recourse to the official papers to test the question as to who is right and who is wrong.

The first trace that I find of this case in its progress through the departments, is in the Second Auditor's office. On the 8th of September, 1846, J. M. McCalla, Second Auditor of the Treasury, certified that there was due W. M. Gwin, \$56,021.49. This certificate was sent to the Second Comptroller, and the next trace of it is found in the letter which I now read:

TREASURY DEPARTMENT,  
SECOND COMPTROLLER'S OFFICE, Sept. 9, 1846.

SIR: The Second Auditor of the Treasury, on the 8th instant, reported to me an account in favor of William M. Gwin for \$56,021.49, chargeable upon the appropriation for carrying into effect treaties with the Chickasaws, under the act of April 20, 1836.

As this claim is "connected with Indian affairs," and calls for an expenditure from an appropriation under the charge of the War Department, it should have been transmitted to the Commissioner of Indian Affairs for ADMINISTRATIVE EXAMINATION, under the 3d section of the act of July 9, 1832, and the fifth paragraph of "Revised Regulations No. 1, concerning the execution of the act of July 9, 1832, providing for the appointment of a Commissioner of Indian Affairs."

In order that the claim may receive the proper administrative examination as required by law, I herewith transmit all the papers received from the auditor connected therewith. With entire respect, &c.,

ALBION K. PARRIS, *Comptroller.*

Hon. W. MEDILL, *Commissioner of Indian Affairs.*

Need I go further, to show that the Indian Bureau had been improperly passed by in the presentation of this claim? That faithful and intelligent officer, of twenty-odd years' experience, A. K. Parris, sent it back to the Commissioner of Indian Affairs for that *administrative examination* which the case required, and without which it could not properly be paid.

I shall not undertake to trace its history from that day, September 9.

1846, to March 12, 1850, when it was finally paid by order of Thomas Ewing, Secretary of the Interior. Suffice it to say, it was a history of stern resistance and constant protests, on the part of the Indians and their attorneys, against its payment. Indeed, sir, their arguments, protests, and remonstrances are scattered through this immense mass of papers on my desk, like the beacon-lights along a difficult and dangerous shore.

The minority of the committee, with a boldness which seems to defy contradiction, says: "There is no evidence that this claim was rejected by the proper officer. Indeed the finding is directly to the contrary." Now, sir, if this be true, how came it that this claim was not paid? How did it happen that it lay in the Indian office from the 9th of September, 1846, to the 12th March, 1850? How came it to lie there until the close of Mr. Polk's administration, and until the reign of the "Galphins" had fairly begun? We shall see. I beg to invite the attention of the House to certain papers, which being among those officially communicated, could not have escaped the critical eye of the gentleman [Mr. Vinton] under whose auspices the minority report was prepared.

The first paper in this large mass before me is a letter from William Medill, late Commissioner of Indian Affairs, to Thomas Ewing, Secretary of the Interior, detailing the history of this case. It bears date June 27, 1849. In one place the writer says:

"Of the \$112,042 99-100 found due the Chickasaws, William H. Gwin, Esquire, claims the enormous sum of one-half for his services or instrumentality in recovering the amount, under an alleged contract with those Indians. Without dwelling upon the extraordinary extravagance of this demand, which is sufficiently apparent by the mere statement of it, I would remark, that notwithstanding the peculiar position of the Chickasaws, they, like other Indians, are the wards of the government, and no such contract or agreements are valid or binding unless sanctioned by the department."

And again, in speaking of the fund out of which it was proposed to pay this "enormous sum," he says:

"I am of the opinion that it could not properly be used towards repaying the Chickasaws the amount found due to THEM by the accounting officers: and so the Secretary of War, as I understand, decided when the report of these officers of the result of their adjustment of the account, and the amount found due the Chickasaws, was presented to him in September, 1846, for a requisition for \$58,124.14, to be taken from the removal and subsistence fund. HE CERTAINLY PEREMPTORILY REFUSED TO ISSUE THE requisition."

And again:

"This being the case, it is not seen how any portion of it could legally or properly be used towards paying the Chickasaws the amount found due THEM.\* In my judgment, this can only properly be effected through an appropriation therefor by Congress."

Does all this look like there had been no rejection, no refusal to pay? Does it look as if "the recorded fact was exactly the contrary?"

Now, let us turn over to page five of this great book of manuscript before me, and here we find an order from W. L. Marcy, Secretary of War. It is dated October 1, 1846, about twenty-two days after this case had fallen into Medill's hands, and is addressed to William Medill, Commissioner of Indian Affairs. Mr. Medill, in handing over the papers in this case to Secretary Ewing, says, referring to this order:

\* Let me remark here, that in speaking of the amount *due them*, the commissioner means the whole sum, \$112,000, and includes, of course, the \$56,000 claimed by Dr. Gwin.

"The rule of action which has governed the Executive in cases of contracts with Indians, as well as powers of attorney procured from them, you will find embodied in the accompanying order of the Secretary of War of October 1, 1849."

Here is the order:

"The practice which has heretofore prevailed, to a considerable extent, of paying money due to Indians on powers of attorney given by them, is wholly inconsistent with the duty of government to pay over to them, promptly and without abatement, whatever may be due to them under any treaty or law; or for any claim whatever to which they may be justly entitled. Agents are appointed, and by the government, to attend to their business for them, and they should be the medium of all their communications with the government, whether in relation to any claim they may have, or to their wants or wishes upon any other subject.

"W. L. MARCY, *Secretary of War*."

How could the minority of the committee, with this record before them, deny that there had been any adverse decision, and even intimate that the decisions had been in favor of the claimant? First, we have the admitted fact, that the claim was submitted to Mr. Medill in September, 1846; that for more than three years he did not pay it; and that he went out of office without paying it. Second, we have his letter before he left the office, assigning his reasons at length for not paying it; and thirdly, we have Secretary Marcy's order, so pointed and positive that this claim could never have been paid without violating that order. And yet, gentlemen say there has been no decision. Nay, sir, they even assert that the decision has been in their favor.

"They must have optics sharp I ween,  
To see what is not to be seen."

I pass from the consideration of this point, and return to the second contract, which we have seen is without date, but which is found to have been in the Second Auditor's office as early as 8th September, 1846. It may have been there some days earlier.

By the terms of this contract, which I have before me, Doctor Gwin was to have for his services, as attorney for the Indians, various large sums of money, and among others, one-half of all that should be recovered from the United States on account of provisions purchased at Cincinnati in 1837. The sum thus recovered, or which, I should rather say, was found to be due on a fair settlement of the Chickasaw account, was \$112,042.99. One-half of this sum was, of course, \$56,021.49, and this was the sum claimed by Doctor Gwin. The report and resolutions have no relation to any other payment to Doctor Gwin, and I shall, therefore, confine my remarks to this fifty-six thousand dollars—dismissing the others with the single remark that they were paid.

We have already seen that the Second Auditor, McCalla, passed this claim and sent it down to Second Comptroller Parris on the 8th of September, 1846. We have also seen that the comptroller sent it on the day following to the Commissioner of Indian Affairs, where it properly belonged, for administrative examination. We have seen that it remained there to the close of Mr. Polk's administration, and we have seen the reasons why it was not paid. Let us now pursue the thread of its remarkable history during the three years and more that intervened between its falling into Commissioner Medill's hands and its final payment by order of Thomas Ewing, Secretary of the Interior.

Within a day or two after the claim was passed by Second Auditor McCalla, Doctor Gwin transferred it, for value received, to Messrs. Corcoran & Riggs, bankers in this city.

Various protests of the Indians and their attorney, together with other papers, are found on file. But no effort seems to have been made on the part of the claimants to change the determination of Commissioner Medill and Secretary Marcy. Early in 1849, and after the new cabinet were fairly under way, the claimants seem to have renewed their labors. A long resting spell had imparted to them new energy, and they pursued the case with an earnestness and zeal worthy of a better cause. I pass over much that was said and done between the 4th of March, 1849, and the 30th of June of that year, and resume the history with the following letter:—

WASHINGTON CITY, June 30, 1849.

SIR: I have just been informed that an effort is being made to transfer an appropriation now standing on the books of the treasury "for the removal and subsistence of Indians," to the appropriation "for carrying into effect treaties with the Chickasaws," with a view of asking the payment or contract made by certain Chickasaw Indians with Dr. Wm. M. Gwin. I most respectfully ask the suspension of your action in the matter until I can have time to file a protest on behalf of the Chickasaw nation, and state the reasons why the claim should not be paid without being transmitted to the Chickasaw Council for their approval.

With great respect, your obedient servant.

JOSEPH BRYAN.

HON. T. EWING, *Secretary, &c.*

It will be remembered that Mr. Bryan was the attorney of the Indians, regularly employed to resist the payment of this claim.

On the 2d of July, 1849, Mr. Bryan filed the protest alluded to in the letter just read, and from that protest I read the following extract:—

"I deem it altogether needless at this time to go into a history of the transaction, as the protest of the agent, Colonel Upshaw, was filed by me in the Indian Office, which purported to explain the whole matter, and which had the effect of stopping the action of the War Department in the matter, and prevented the payment of the claim under the DECISION OF THE LATE SECRETARY OF WAR, GENERAL MARCY. Since that time no effort that I am aware of has been made to procure its payment until now."

Nothing daunted, the claimants pressed their suit with increased energy, and by way of showing the nature of the opposition and the character of the obstacles thrown in their way, I beg leave to read two or three short papers found among the files now before me. It is impossible that these papers should have been overlooked by the most careless searcher after truth in this case. On the 14th of July, 1848, Colonel Pitman Colbert, a distinguished man among the Chickasaws, wrote to Commissioner Medill the letter from which I read an extract:—

"I present myself and respectfully request to be informed of the amount of money received by Dr. W. M. Gwin, by virtue of a power of attorney from the Chickasaw commissioners; also a copy of that power of attorney, as it is important for my object to know the names of the persons who made and constituted Dr. Gwin the financial agent of the Chickasaws; and whether or not said Gwin has not attempted to draw other sums of money by virtue of said power, since it became notorious that his power was revoked by the universal condemnation of the Chickasaw people; together with any other information relating to this matter that may be in possession of your department."

On the 28th of February, 1849, a delegation from the Chickasaw nation thus wrote to Secretary Marcy. After speaking at some length of their claim for \$112,042.99, they say:—

"But we found in connection, however, with this claim, that an agreement has been filed between William M. Gwin on the one part, and the chiefs, headmen, and warriors on the other part, by which it appears that one-half of said claim was to be paid to said William M. Gwin, for his services in obtaining an adjustment of the claim by the government, and on this agreement the Second Auditor has allowed William M. Gwin \$56,021.49, being the one-half of \$112,042.99 as stated. This account is now suspended in your office, as we are informed, and we are bound to thank you for delaying the matter thus far, although it is important to our people that they should be in annual receipt of the interest upon this sum which is justly due the Chickasaw nation."

Such is the character of all the papers in this great mass, numbering more than five hundred pages. The Indians, from the beginning to the ending, sternerly and steadily resisted the payment of this demand. It is among the most remarkable circumstances connected with the case, that there is not one particle of Indian testimony to sustain it—not a single Indian of the whole tribe has ever been found to endorse its justice, or to say it ought to be paid. Their testimony is uniformly and unitedly against it. Their sense of its injustice may be gathered from the paper which I now read:—

#### A PROTEST.

*Be it enacted by the General Council of the Chiefs and Captains of the Chickasaw tribe of Indians, That the following protest be adopted, and copies of it be transmitted to the Secretary of the Treasury and to the Secretary of the Home Department at Washington city:*

The chiefs, captains, headmen, and warriors of the Chickasaw tribe of Indians in full council assembled, have learned that Dr. William Gwin has filed in the Treasury Department of the United States, at Washington City, an account against the Chickasaw fund, for \$56,021.49, which account we understand, is based upon an agreement which, it is pretended, was made between the said Gwin and the Chickasaw tribe of Indians. This agreement, if any such exist, was made by some of our commissioners or chiefs in a private manner, without the knowledge or consent of our nation in council, and has never been recognised, ratified, or confirmed by a general council of our tribe, and without this it cannot nor ought not to be binding upon our people. Our tribe cannot be bound by the acts of any individuals of the same, unless a special power for this purpose has been delegated to them by a general council.

The tribe of Chickasaws, in full council assembled, after deliberation, repudiate the action of the individuals who entered into that agreement, if any was made, and deny that they had any authority to bind our people.

We therefore solemnly protest against the payment of that account out of the Chickasaw funds, as, in justice to our people, we are bound to do.

Done in open council of our tribe, and attested by our signatures, at Boiling Springs, Chickasaw District, July 13, 1849.

JOEL KEMP,  
Captain STROSS, pro wag, his X mark,  
Captain PARKER, his X mark,  
Captain NED, his X mark,  
HOTCHIE, his X mark,  
LOUIS, his X mark,  
JERRY, his X mark,  
ELBUE NU TURKEY, his X mark,  
WILLIAM JAMES, his X mark,  
ENAH NO TI CHU, his X mark,  
Approved July 10, 1849.

JACK UTTUBBY, his X mark,  
JOH TU CHUCK ATTIEA, his X mark,  
VIBBIT UN OYUH, his X mark,  
ELOSS AMBY, his X mark,  
BILLY, his X mark,  
PITMAN COLBERT,  
LEMUEL COLBERT,  
JACKSON FRAZIER,  
ISAAC ATBERTAUR, his X mark,  
President of the council.

EDMUND PECKERS, his X mark,  
Chief, Chickasaw District, C. N.

Attest: CYRUS HARRIS, Clerk Chickasaw District.

Now, sir, I humbly submit, that all this mass of testimony, together

with a great deal more which I have neither time nor patience to read, should, at least, have put the Secretary on his guard. It should have been sufficient to elicit the most searching investigation into all the facts. We shall presently see whether it had that effect.

I said, sometime since, that the contract was without date, and so it was; other testimony was resorted to to fix its date. A Mr. Charles Johnson, in a long *affidavit* now before me, gives somewhat in detail a history of Dr. Gwin's contracts with the Indians. It seems, that a general council had been called to obtain a ratification of Dr. Gwin's last agreement with a part of the Indian commissioners. There was great dissatisfaction among the people. Johnson concludes his affidavit thus:—

"On the day the council met, the commissioners, in a body, resigned. I was not present, but understood there was much excitement. The power of attorney given to Dr. Gwin, in November, 1844, was said to be the main cause. *Some two weeks after the commissioners resigned, they came to Fort Washita, and then signed the new power of attorney.* In consequence of there having been much said respecting the papers, I requested them to permit me to take both powers to Major Armstrong, and gave them my word that the old one should be destroyed. I returned them both into the hands of Major Armstrong, who, in my presence, destroyed the old one. Colonel Upshaw, Chickasaw agent, saw all the papers, and disapproved of both powers of attorney. At the time this affair took place, I was a trader in the Chickasaw country.

CHARLES JOHNSON.

"CITY OF PHILADELPHIA," ss. Sworn and subscribed before me this 29th day of January, A. D. 1850.

"C. BRAZIER,

*Ald. and Ex-officio Justice of the Peace."*

No wonder this power of attorney is without date. Signed officially by the commissioners *two weeks after they had been compelled to resign*, it would not have looked well to date it. No wonder the Indians in general council repudiated it, and said it had been executed without authority and in a private manner. Can it be, Mr. Speaker, that Messrs. Ewing and Johnson, in deciding to pay this money, could have overlooked papers like these?

But, sir, the case does not stop here. This paper, thus executed, was lost; *yes, lost*. A COPY was presented by Mr. Corcoran, of the firm of Corcoran & Riggs, to whom Dr. Gwin had transferred the claim, and on this copy, thus presented, the money was paid.

Mr. Corcoran swore, to the best of his belief, that it was a correct copy. But there were subscribing witnesses, some six or eight of them, white men and Indians. And I do not learn that an attempt was ever made to obtain their testimony that the copy was correct.

The gentlemen from Ohio and Virginia [Messrs. Vinton and Bayly] have dilated at great length, and with much eloquence and learning, on this, as an *adjudicated case*. We have been exhorted not to lay our profane hands on the sanctity of a judicial decision. We must needs let this thing pass, because it is *res adjudicata*. Let me ask the learned gentleman if there is a court in the civilized world where the plaintiff could introduce the bare copy of the most important paper, upon no other than his own affidavit as to its correctness, and that, too, when there were a dozen or more subscribing witnesses? This a judicial proceeding, indeed! This the sacred ermine we are exhorted not to profane! I have about the same respect for such "judicial proceedings"



that I have for a "Choctaw council," and about as much reverence for this sort of ermine as I have for an Indian blanket.

Well, sir, the case had progressed to this point, when Mr. Ewing determined to pay it; but with that true cunning which is a part of himself, he determined to put the Attorney-General between him and danger; so he called on him for his legal opinion. And here is the opinion of the learned gentleman, in all its length and breadth, height and depth. See it, sir, in all its vast proportions—its latitude and longitude, and be silent while I read, all ye ends of the earth! Listen!

ATTORNEY-GENERAL'S OFFICE,

WASHINGTON, January 3, 1850.

SIR: In the cases of the claim of the Chickasaw nation against the United States, and of Messrs. Corcoran and Riggs, as assignees of William M. Gwin, submitted by you to this office, I have formed an opinion, after careful consideration, which my other engagements prevent my doing more at this time than barely stating. Should it be your wish, I will avail myself of the very first leisure to assign my reasons.

1st. I am of opinion that the account of the nation is to be considered now as having been properly opened and restated, and that the balance found due by the accounting officers of \$112,842, is properly chargeable to the appropriation for the subsistence and removal of Indians.

2d. That the last contract with William M. Gwin, assigned to Corcoran and Riggs, is valid, and that out of the fund payable to the Chickasaws under the first head, whatever balance is due under that contract, should be paid to Corcoran and Riggs.

With regard, your obedient servant,

REVERDY JOHNSON.

HON. T. EWING.

Shades of our fathers defend us! Was there ever such an opinion in such a case? Here is a case involving an immediate payment of \$112,842, and contingently a vastly larger sum. A case which has been decided against by some of the purest officers and ablest lawyers in the Union. Its history covers a period of some twelve or fourteen years, and is written on five hundred pages of foolscap, and the Attorney-General disposes of it in two short sentences: "I am of opinion that it ought to be paid." "I think Corcoran and Riggs ought to have half the money." There it is, well and nobly said. This learned opinion convinced the distinguished Secretary, and he penned this important paper *Veni, vidi, vici*. See, sir, it is short, and exactly to the point. To use the poetic phrase of Mr. Winthrop, "it is as brief as the posy on a lady's ring." Harken! all ye of little faith!

DEPARTMENT OF THE INTERIOR,

January 4, 1850.

The account will be stated, and the payment made in accordance with the Attorney-General's opinion within.

T. EWING, *Secretary*.

This had well-nigh ended the whole matter; but the Chickasaws were importunate. They interposed Johnson's affidavit and other like documents. Ewing hesitated; the thing looked barefaced. He may for once in his life have felt that there was such a thing as *conscience*. Again he called the learned Attorney-General to his aid, and that distinguished functionary, with a promptitude and power which few men can master, responded in the following learned, powerful, and convincing argument:—

ATTORNEY-GENERAL'S OFFICE,

7th March, 1850.

SIR: In compliance with your request of the 8th January last, I have reexamined

the cases of the Chickasaw nation against the United States, and of Corcoran and Riggs, assignees of William M. Gwin, upon which I gave you an opinion on the third of that month, and have most carefully considered the additional evidence and the arguments of the counsel for the parties concerned, and see no reason to change the opinion referred to.

Indeed the effect of the recent evidence is to satisfy me more fully, that that opinion was right; and I therefore again advise you accordingly.

The press of business upon me still continuing, I must wait until the final adjournment of the Supreme Court before I can give in detail the reasons which have led me to the conclusion to which I have come. Should you then desire it, they will be submitted with pleasure.

I have the honor to be, with great regard, your obedient servant,

REVERDY JOHNSON.

HON. THOMAS EWING, *Secretary of the Interior.*

This was conclusive; the Secretary was overcome; the attorneys stood agast; the Indians were floored; the money was paid; Corcoran and Riggs felt comfortable; Dr. Gwin was satisfied, and the scene closed. I drop the curtain over the transaction with this single remark: Before many years shall have passed by, we will be called on to refund this money to the Chickasaws.

## THE OTHER SIDE OF "THE TRUE ISSUE STATED."

A PAMPHLET WRITTEN BY THE HON. ALBERT G. BROWN UPON THE SUBJECT OF THE COMPROMISE MEASURES OF 1850.

Two pamphlets, of thirty-two pages each, have recently made their appearance in great numbers among the people. These publications are entitled "*The True Issue Stated, by a Union Man*," and they do me such gross injustice that I feel called upon to notice them. If the man in the mask, who styles himself "A Union Man," would throw off his disguise and appear in his real person, I should doubtless be spared the trouble of answering his gross perversions of truth. An exposure of his name and face would be the most conclusive proof that justice and fair dealing are not to be expected at his hands.

The author of these pamphlets introduces my name in various places and connections, and it shall be my purpose to show how grossly he has perverted, or attempted to pervert, my acts and words.

1st. Reference is made to the introduction of a bill by Mr. Preston of Virginia, to admit, as a state, into the Union, the whole of the territory acquired from Mexico (to wit, California, Utah, and New Mexico), and an attempt is made to produce the impression that I contemplated voting for this proposition. The truth is that I spoke against it, and no one can read my speech without seeing at once that I never could have voted for Mr. Preston's bill, without having it amended in its most essential features. I spoke on the 10th of February, 1849 (see page 120, Appendix to Cong. Globe). In that speech I said:—

"All our propositions were voted down as they were successively presented, and by that party which claims a right to undivided dominion over these territories. I

*never have, and never shall assent to the justice of this claim, and hereafter I will vote to maintain the rights of the South in their broadest latitude, unless I shall plainly see that by an honorable and manly surrender of a portion of these rights, peace may be secured, and the Union rescued from its present perilous condition."*

It suited the purpose of "A Union Man" to leave this out. To have included it would have been to show the true temper of my speech—that I never would consent to give up the whole of the *territories* to the North. Then, as ever since, and before, I was ready to occupy the territories *jointly* with the people of the North, and if this could not be done, to divide them fairly. The North claimed the whole. "*I never have, and never will, assent to the justice of this claim.*"

With amendments to Mr. Preston's bill, such as would effectually have insured the South justice in the territories, I would have voted for it; without these it never could have commanded my support.

"A Union Man" entirely overlooks the important fact that Preston's bill proposed to confer on the people of California, *by act of Congress*, the power to erect a state. I spoke against this at length, and yet the singular inference is drawn, that I ought to have voted for the admission of California, erected as she was into a state without the authority of Congress or of any other legislative body. It may be well seen how I could have voted to confer on the people of California the right to form a state government, and yet, how, without inconsistency, I should oppose her admission when she sought it on the authority alone of irresponsible and unauthorized persons. It did not suit the jaundiced eye of "A Union Man," to see the difference between the two propositions. Suppose I had even voted for Preston's proposition, to confer on the people of California the power to erect a state government, would it thence have involved me in an inconsistency to vote against the admission of a state, erected without authority, and by persons having no more right to do so than a nation of Hottentots? *But the truth is, I did not vote for the one or the other of these propositions, nor did I contemplate doing so at any time.*

I submit the following extracts from my speech on Preston's bill. Read them, and ask yourself what was "A Union Man's" intention in suppressing them:—

"Here is a conquered people, possessing as yet, no political rights under our laws and Constitution, because not yet admitted to the rights of citizenship, and, what is worse, possessing no practical knowledge of the workings of our system of government, and knowing nothing of our institutions. The substantial question is, shall such a people give laws to our territories, and shape and mould their institutions for the present, and possibly for all time to come. \* \* \* The gentleman's bill gives to every white male inhabitant, over the age of twenty-one years, the right to vote, whether Spaniard, Mexican, Swede, Turk, or what not. \* \* \* I submit to my honorable friend whether it would not be respectful, to say the least of it, towards his constituents and mine, to require these people, before they pass final judgment on our rights, to make an intimation in some form that they intend to become *citizens*, as well as *inhabitants* of the United States." (*See page 120, Appendix to Cong. Globe, 1849.*)

It will be seen from these extracts, and more clearly by reading the whole speech, what my opinion of Mr. Preston's bill was, and that without amendments, such as should have avoided my objections, and given the South a hope of justice, I never could have voted for it. I confess to have felt then, as at all times, before and since, a strong anxiety to

see the question settled upon terms fair and just to all parties, and in this spirit I said in my speech on Preston's bill: "*I am prepared to go to that point where conflicting interests and opinions may meet, and adjust this dangerous issue upon terms honorable to both sides, and without any undue sacrifice by either party.*" Preston's bill did not go to that point. I made my speech to show that it did not. If it had been so amended as to reach the point designated, then I should have voted for it. Without this, my speech shows that my vote would have been given against it.

2d. The second point made by "A Union Man," is based on what he calls the memorial of the Senators and Representatives from California. I know nothing of this memorial, and care less. My statement was made on the authority of eye-witnesses in the country at the time the so-called California constitution was formed, and upon the better authority of General Riley's published proclamation. Upon these I stated, what is true, that thousands of foreigners were authorized to vote, and that they did vote. I make no qualification to the general declaration that the constitution of California was made by unauthorized persons—that among them were foreigners not speaking our language, knowing nothing of our laws, and caring nothing for our rights.

3d. "A Union Man" next takes issue with me on my statement that "the fugitive slave bill," the same that is now the law of the land, is not, and never was, one of the "compromise bills." I repeat now, that it was not, and that it never was, a part of Mr. Clay's *omnibus*, or general compromise bill. "A Union Man" knows perfectly well, if he knows anything at all on the subject, that the fugitive slave bill, the one that passed, did not come from the hands of Mr. Clay, or the hands of any other compromise man. He knows that Mr. Mason of Virginia, a friend of southern rights, and a bitter opponent of the compromise, introduced this bill, and that it was supported and carried through the Senate and House of Representatives, by Southern votes, and that without the votes of Southern Rights Democrats, it never could have been passed through either House of Congress. He knows that the Fugitive Slave Bill got but thirty-three Northern votes, *three* in the Senate, and *thirty* in the House. All the rest, *one hundred and forty-four* in number, either voted against it, or fled from their seats to avoid the responsibility of voting. All these things "A Union Man" knows perfectly well. Why conceal the facts if he did not mean to deceive the people?

*The Fugitive Slave Bill is not a gift from the North*, either as a part of the Compromise or otherwise. It was introduced by an Anti-compromise Southern Rights Democrat, and it was carried through both Houses of Congress by Southern votes, and without the aid of the ENEMIES of the Compromise it never would have passed.

4th. The fourth point made against me is that I was a member of a committee in Congress that reported a bill to abolish the slave trade in the District of Columbia, in 1849. It is true that I was a member of the committee, made so by the Speaker, without my consent; but it is not true that I reported the bill, or even consented to its being reported. It is not true that I voted for it after it was reported, or ever consented or promised to vote for it.

In this, as in other cases, a "A Union Man" publishes what he calls

extracts from my speeches, taking care to suppress every word that does not suit his purpose. Why were paragraphs like these left out :

Mr. Brown said, "he had always believed that in his representative character, he was called upon to represent the expressed will and wishes of the people of the District of Columbia, having, at the same time, due regard to *the rights of the people of the several states, and to the restrictions of the Constitution of the United States.*" And again, "he did not believe that the strong party in Congress had a right to pass any law for the District without respect to the wishes of the people of the District, and without respect to the Constitution and the rights of the people outside of the District, but that in all this branch of their public charge they should have an eye strictly to *the Constitution and to the rights of the whole people.*" And then again : "In acting upon a petition from the people of this District, his first object was to inquire how far he might go and still remain within the *limits of the Constitution*, and then how far he might go without infringing upon the deed of cession from Maryland and Virginia. These limits being ascertained, he should be prepared to go for any law desired by the people of the District, which did not require these fixed limits to be transcended."

These passages have been omitted by a "A Union Man." He could not show them, without disclosing the fact that then, as now, I insisted upon an observance of *the constitutional rights of the whole people.* Were these rights respected when Congress enacted that the master's slave "should become liberated and free," if he took him to the District, "for the purpose of selling him?"

I extract again from the same speech :—

Mr. Brown said : "If gentlemen desire it of him, he would now tell them that he felt the necessity, on the part of the South, of standing together upon every question involving the right of property in slaves, the slave trade, and Abolition in all its forms. He knew that they must stand together for defence: therefore, as the South vote so he should vote, till the pressure from without should be withdrawn. The South acted together upon the principle of self-protection and self-preservation. They stood for protection against destruction and annihilation. He knew not the motive which prompted this outward pressure; he felt its existence, and he knew that the South acted purely on the defensive; they merely warded off the blow directed against their peace—their lives. Such were his motives for voting with the South. And he now said to all who were opposed to him or his country, Withdraw your pressure; cease to agitate this question; let us alone; do whatsoever you think be right without endangering us, and you will find that we, too, are ready to do right."

Mr. Brown trusted he had not been misunderstood; for it was known that, to a Southern member, this was a delicate question. He had expressed his honest views—views which he desired to carry out in good faith. He did very well know, that if the South were let alone—if they were not positively ill-treated, the North might be assured they would come up and do what was right. They stood together now for their own preservation, and nothing less than unity in their councils could be expected of them in the present crisis. If individual members did not always vote exactly according to their views of right upon these questions, it was because of this known, and now universally acknowledged, necessity of unity and concert among ourselves. When a sleepless and dangerous enemy stood at our doors, we felt the necessity of acting together. Let that enemy withdraw—let us out into the open sunshine, where we could look upon the same sun that you look upon—where the air, the land, the water, everything could be seen in common, and enjoyed in common—and we should be ready to meet you as brethren, and legislate with you as brethren. But so long as you keep up this pressure, these endless, ceaseless, ruthless assaults upon us, we must stand together for defence. In this position we must regard you as our enemies, and we are yours.

These, and other kindred expressions, were meanly suppressed, because it would not do to disclose the fact, that then, as now, I stood by the South, and with the South, in the defence of Southern interests, Southern rights, and Southern honor.

This bill of 1849, which I did *not* introduce, did *not* in any way *support*, and for which I *never* would have voted, except (as stated at the time) in company with the great body of southern members, and not then, unless certain constitutional impediments had been first removed—this bill only punished the overt act of selling or offering to sell, by the *fine and imprisonment* of the master or owner of the slave. The bill, as passed into a *law*, by the Compromisers, punishes the “purpose” or intention to sell by *setting the slave free*. It is the act of setting the slave at LIBERTY, because his master intends to sell him, that I complain of, as the special outrage inflicted by this Compromise.

These are the material points made against me in pamphlet number ONE. The positions against me in the second number are:

1st. That I voted, on two occasions, with certain Abolitionists in Congress—first, on the Utah bill, and next on the Texas boundary bill. For both of these votes I had good and sufficient reasons, and I have so often given them to the public that I deem it useless to repeat them at length. Let a very brief statement suffice. And first, as regards the Texas boundary bill. This bill, and that to give a territorial government to New Mexico, were included in one proposition. I could not, therefore, vote for, or against the one, without voting for or against the other. The Abolitionists desired to take from Texas about 80,000 square miles of the territory south of 36° 30', and pay her nothing; I was not willing to give up one inch of territory south of that line, or pay anything if it was taken; and hence, for very different reasons, we were brought together in voting against a proposition to take forty-four thousand square miles of territory, and pay ten millions of dollars. And then, as regards Utah. This was the last of the territorial bills that came up for consideration, and for many reasons I did not think it a matter of much consequence. If justice had been done us in the other territories, I might have voted for this bill. Utah lies entirely above 36° 30', and if our rights had been respected south of that line, I should not have contended against giving up the territory north of it. But if our rights were not acknowledged south of the line, I would not *voluntarily* abandon our claim north of it. As many Free-Soilers as felt willing to risk the Mexican law abolishing slavery in the territories voted for this Utah bill. Those who insisted upon the Wilmot proviso, *in terms*, voted against it. But since the bill has passed they are all satisfied, and they will remain so as long as the Mexican law has the EFFECT of excluding slavery, and whenever it fails in that effect, if it ever does, they will fall back upon the Wilmot proviso. These territories, Utah and New Mexico, were organized with the distinct understanding among all northern men, and with many southern men, that slavery was already excluded by the law of Mexico. And without this understanding, it is well known that northern senators and representatives would not have voted for these bills. I could not, and would not make myself a party to such an understanding, and for this, as well as for other reasons, I voted against these territorial bills.

Why was not this Mexican law repealed? I will show the reason; and I will show, moreover, that “A Union Man” acts the hypocrite when he charges it as a FAULT against me that I voted with the Abolitionists. Is not “A Union Man” the friend of General Foote?—and, if so, how does he excuse such votes as the following? Colonel Davis introduced

an amendment, as follows, the design of which was to repeal the law of Mexico—abolishing slavery in the territories acquired from Mexico. Here is Davis's amendment:—

“And that all laws and usages existing in said territory, at the date of its acquisition by the United States, which deny or obstruct the right of any citizen of the United States to remove to and reside in said territory with any species of property legally held in any of the states of this Union, be and are hereby declared null and void.”

The following is the vote:—

YEAS—Messrs. Atchison, Barnwell, Bell, Berrien, Butler, Clemens, Davis of Mississippi, Dawson, Downs, Houston, Hunter, King, Mangum, Morton, Pratt, Rusk, Sebastian, Soule, Turney, Underwood, and Yulee—22.

NAYS—Messrs. Badger, Baldwin, Benton, Bradbury, Bright, Cass, Chase, Clarke, Clay, Cooper, Davis of Massachusetts, Dayton, Dickinson, Dodge of Wisconsin, Dodge of Iowa, Felch, Foote, Greene, Hale, Hamlin, Jones, Miller, Norris, Pearce, Seward, Shields, Smith, Spruance, Sturgeon, Upham, Wales, Walker, and Whitcomb—33.

It will be seen that twenty-two senators voted for this amendment—all of them from the South, and that thirty-three voted against it—among them CHASE, HALE, HAMLIN, SEWARD, and every other Free-Soiler and Abolitionist in the Senate, and it will be further seen that GENERAL FOOTE voted in the same list with these *Free-Soilers* and *Abolitionists*.

Nor is this all. On the 28th of August, 1850, Mr. Atchison moved to lay the bill to abolish the slave trade in the District of Columbia on the table. GENERAL FOOTE voted with *Hale, Chase, Baldwin*, and other Abolitionists and Free-Soilers, against laying it on the table.

And again, on the 10th of September, 1850, the question being on striking out the first section of this same bill, GENERAL FOOTE again voted with *Chase, Hamlin, Seward*, and other Free-Soilers, against striking it out. Here is the first section of the bill:—

“Be it enacted by the Senate and House of Representatives of the United States in Congress assembled, That from and after the first day of January, eighteen hundred and fifty-one, it shall not be lawful to bring into the District of Columbia any slave whatever for the purpose of being sold, or for the purpose of being placed in depot, to be subsequently transferred to any other state or place to be sold as merchandise. And if any slave shall be brought into said district by its owner, or by the authority or consent of its owner, contrary to the provisions of this act, such slave shall, thereupon, become LIBERATED AND FREE.”

The following is the vote on the motion to strike out this section:—

YEAS—Messrs. Atchison, Berrien, Butler, Davis of Mississippi, Dawson, Downs, Houston, Hunter, King, Mason, Morton, Pratt, Rusk, Sebastian, Soule, Turney, Underwood, Yulee—18.

NAYS—Messrs. Badger, Baldwin, Bell, Benton, Bright, Chase, Clay, Davis of Massachusetts, Dayton, Dickinson, Dodge of Wisconsin, Dodge of Iowa, Ewing, Felch, Foote, Greene, Hamlin, Jones, Mangum, Norris, Phelps, Seward, Shields, Smith, Spruance, Sturgeon, Wales, Walker, Whitcomb, Winthrop—30.

It will be seen that all the ayes are from the South, and that “A Union Man's” favorite candidate for governor voted again with the Abolitionists.

My object in presenting these votes of *General Foote*, is not to criticise them, but to show the *hypocrisy* of “A Union Man,” who holds up my votes, and invokes the condemnation of my constituents upon them.

whilst he carefully avoids the like votes of his own favorite candidate. If it be a sin in me to have voted with *Giddings* and *Tuck*, is it any less a sin in Foote to have voted with SEWARD and HALE?

But to proceed to point No. 2. This pamphlet contains what purports to be extracts from my speeches, and in making them up to suit his purposes, "A Union Man" has been guilty of the grossest frauds. He not only suppresses material parts of my speeches, without which, he well knows, the other parts will not be understood, but he divides paragraphs, sticks the divided parts together, drops sentences, and leaves out whatever does not suit his purposes, and all with the intention, as he well knows, of misleading the public. In all my life, I have never seen truth so grossly perverted, or falsehood and slander more impudently suggested.

The intention of this writer is to show that I am a Disunionist. To this charge I give the LIE direct, and leave this masked calumniator to his farther proof. On this point I select, at random, the following paragraphs from my speeches, and ask an indulgent public why these things have been suppressed, if the intention of "A Union Man" was not fraudulent? If it was not his purpose to impose upon the public, why did he suppress the truth? From my speech on Preston's bill, February 10th, 1850, page 120, *Appendix Congressional Globe*:—

"Let it (the Union) fulfil the high purposes of its creation, and the people will preserve it at any and every sacrifice of blood and treasure, and nowhere will these sacrifices be more freely made than in the South."

"The Union of these states rests on a foundation solid and sacred, the affections of the people of all the states. Be careful how you tamper with that foundation, lest you destroy it, and thus destroy the Union itself. Let the Union dispense equal and exact justice to all—special favors to none, and not one murmur of complaint will ever come up here from the patriotic sons of the 'sunny South.' We despise injustice of every kind. In the emphatic words of a distinguished chieftain, 'we ask no favors and shrink from no responsibility.'"

Why did "A Union Man" pass over these and other like expressions in that speech?

"A Union Man" commences one of his extracts with the words, "Have we any reason to fear a dissolution of the Union?" and then has the meanness to suppress these words, which are next after them, in the same paragraph, and in actual connection with them: "Look at the question dispassionately, and answer to yourselves the important question, can anything be expected from the fears of the southern people?" Why were these words left out? Simply, because to have shown them would have been to show that I had but warned the North not to calculate on the cowardice of the southern people.

And again, in the same paragraph, these words are left out: "We have not been slow in manifesting our devotion to the Union. In all our national conflicts we have obeyed the dictates of duty, the behests of patriotism—our money has gone freely, the lives of our people have been freely given up, their blood has washed many a blot from the national escutcheon, we have *loved* the Union, and we *love* it yet, but not for this, nor a thousand such Unions, will we suffer DISHONOR at your hands."

And again, these words are extracted, "*I tell you, sir, sooner than submit, we would dissolve a thousand such Unions as this,*" and with this "A Union Man" stops. Why did he not include the very next



words, "Sooner than allow our SLAVES to become our MASTERS, we would lay waste our country with fire and sword, and with our broken spears dig for ourselves honorable graves." Why were the first words taken and the next left out? Because, if all had appeared, it would have been seen that it was bondage to our own slaves that I gave warning we would not submit to. It did not suit "A Union Man" to tell the truth, and so he LIED, by suppressing the truth.

Again, "A Union Man" extracts a part of a paragraph as follows:—"Whether the people will submit to this high-handed proceeding (the admission of California), I do not know; but for myself, I am for resistance," &c. Here I charge that this writer not only garbles my speech, but by inserting the words (the admission of California), he suggests a positive falsehood. These words were not used by me, do not appear in the printed copy of my speech, and were interlined by this writer for no other purpose than to suggest a falsehood. The "high-handed proceeding" alluded to by me, had no reference to the admission of California, but referred directly to the conduct of the President of the United States, as was stated at the time, in attempting "to make a new state without the aid of Congress, and in defiance of the Constitution." This was the "high-handed proceeding" which I pledged myself to "resist," and that pledge I have redeemed to the utmost of my ability. This whole speech will be found on page 258 to 261 *Cong. Globe*, 1850.

In addition to the above, I beg leave to submit, from the same speech, the following extracts. Why did "A Union Man" omit them?—

"Oh! gentlemen, pause, I beseech you, in this mad career. The South cannot, will not, *dare* not submit to your demands. The consequences to her are terrible beyond description. To you forbearance would be a virtue—virtue adorned with love, truth, justice, patriotism. To some men I can make no appeal, \* \* \* but to sound men, just men, patriotic men, I do make an earnest appeal, that they array themselves on the side of the *Constitution*, and save the *Union*. \* \* \* Let those who desire to save the Constitution and the Union, come out from among the wicked, and array themselves on the side of justice—and here in this hall, erected by our fathers, and dedicated to liberty and law, we will make new vows, enter into new covenants to stand together and fight the demon of discord, until death shall summon us to another and a better world." \* \* \*

"Before the first fatal step is taken, remember that we have interests involved which we cannot relinquish, rights which it were better to die with than live without. The direct pecuniary interest involved is twenty hundred millions of dollars, and yet the loss of this is the least of the calamities you are entailing upon us. Our country is to be made desolate, we are to be driven from our homes—the homes hallowed by all the sacred associations of families and friends, we are to be sent like a people accursed of God to wander through the land, homeless, houseless and friendless, or what is ten thousand times worse than this, than these, than all, remain in a country now prosperous and happy, and see ourselves, our wives and our children, degraded to a social position with the black race. These, these are the frightful, terrible consequences you would entail upon us. I TELL YOU, SIR, SOONER THAN SUBMIT, WE WOULD DISSOLVE A THOUSAND SUCH UNIONS AS THIS—sooner than allow our slaves to become our masters, we would lay waste our country with fire and sword, and with our broken spears, dig for ourselves honorable graves."

Is there a southern heart that does not throb a fervent response to these sentiments? and is there an honest eye that does not detect the baseness which prompted "A Union Man," when he tore from this paragraph the single sentence: "I tell you, sir, sooner than submit, we would dissolve a thousand such Unions as this?" Did he not know that he was perpetrating a fraud? On the same page from which this extract

is taken, the following may be found. Does any one suppose it escaped the eye of "A Union Man?"—

"I repeat, we deprecate disunion. Devoted to the Constitution—reverencing the Union—holding in sacred remembrance the names, the deeds, and the glories of our common and illustrious ancestors, there is no ordinary ill to which we would not bow sooner than dissolve the political association of these states. If there was any point short of absolute ruin to ourselves, and desolation to our country, at which these aggressive measures would certainly stop, we would say at once go to that point and give us peace." And again—

"I warn gentlemen if they persist in their present course of policy, that the sin of disunion is on their heads, not ours. If a man assaults me, and I strike in self-defence, I am no violator of the public peace. If one attacks me with such fury as to jeopardize my life, and I slay him in the conflict, I am no murderer. If you attempt to force upon us sectional desolation, and—what to us is infinitely worse—social degradation, we will resist you, and if in the conflict of resistance the Union is dissolved, we are not responsible. If any man charges me with harboring sentiments of disunion, he is greatly mistaken. If he says that I prefer disunion to sectional and social degradation, he does me no more than justice." \* \* \*

"Do not mistake me; I do not say that our exclusion from the territories would of itself justify disunion. I do not say that the destruction of the slave trade in the District of Columbia, nor even its abolition here, nor yet the prohibition of the slave trade among the states, would justify it. It may be, that not one, or two, nor all of these combined, would justify disunion. These are but initiatory steps, they lead you on to the mastery over us, and you shall not take these steps."

I might show many other extracts from this same speech, but surely these may suffice. To those who would know more about it, I would say, "Look to the *Congressional Globe*, of January 30th, 1850, page 257, and read the whole speech. The book may be found in the office of the Probate Clerk, where I caused it to be placed for your inspection."

If more shall be desired in refutation of the slander, that I sought a dissolution of the Union, allow me to present an extract from my speech of August 8, 1850, page 1550 *Cong. Globe*. And here let me remark that when these speeches were made, no murmur of complaint was heard against them. Then they were patriotic enough; now they are rank treason, according to my enemies.

"There is one other matter to which I must advert. It is become quite too common of late, for certain political censors, in and out of Congress, to speak of southern men who demand justice for the South, as ultras; and if we persist in our demands, and can neither be bribed or brow-beaten into acquiescence with northern wrongs, the next step is to whistle us down the wind, as traitors and disunionists. It is not because I fear the effects of charges like these on the minds of my constituents, that I now speak. They have known me for many long years. I have served them here and elsewhere, and if there is any earthly power to persuade them that I am a disunionist, or a traitor to my country, I would scorn to receive office at their hands. I allude to charges like this, that I may hold them up to public scorn and reprobation. The miserable reptiles who sting the South, while they nestle in her bosom, are the authors of these base calumnies. Sooner or later they will be spurned as the veriest spaniels who ever crouched at the footstool of power."

So I spoke on the 8th of August, 1850, and so I say now. It is by such reptiles as this "Union Man," that the South is stung; and when the South learns to plant her foot upon them and crush them, she may look for justice, and not till then.

A speech made by me at "Ellwood Springs," in November, 1850, has been the subject of extensive misrepresentation and slander. "A Union Man" could not of course speak the truth in regard to it. He leaves

out sentences, and puts others together to suit his own false purposes. For instance, he makes me say "this justice was denied us in the adjustment bills that passed Congress." "I am for resistance; I am for that sort of resistance which shall be effective and final." These two sentences are more than two entire pages apart in the speech as delivered by me, and have no relation to each other. The words "this justice was denied us in the adjustment bills which passed Congress," are *immediately* followed by the words, "But we are not to infer that the fault was either in the Union or the Constitution. The *Union* is strength, and if not wickedly diverted from its purposes, will secure us that domestic tranquillity which is our birthright. The Constitution is our shield and our buckler, and needs only to be fairly administered to dispense equal and exact justice to all parts of this great confederacy." Why were not the words extracted as they were spoken? Why put two sentences together taken from different pages, having no relation to one another, and leave out all that was said in connection with the one and with the other? Was there ever a more impudent attempt at fraud and imposition?

This writer says, I demanded justice for every state and for all sections, and that I added, "If the Union cannot yield to the demand, I am against the Union. If the Constitution does not secure it, I am against the Constitution." And he would, from his manner of stating what I said, leave the inference that I was against the *Union* and the *Constitution*, because they had not secured us justice. I said, in this *precise* connection, "We are not to infer that the fault is in the Union, or the Constitution. The Union is strength, and the Constitution is our shield and our buckler." But it did not suit the purposes of "A Union Man" to quote these words. He could not have seen the words that he did quote without seeing these also; they were, therefore, *intentionally* omitted.

It is asserted that I made certain *demands* of the federal government, and took the ground if these demands were not complied with, "all connection with the Northern States ought to be dissolved." The demands are not set forth, and the reader is left to infer that there was something monstrous and unreasonable in these demands. The truth is, that I have demanded nothing, have proposed nothing, but what the *southern* friends of the compromise *say* we now have. All I ask is that they will join us in procuring from their northern friends, an acknowledgment that their interpretation of the compromise is right. Here are the demands; is there anything unreasonable or unjust in them?—

"We should demand a restoration of the laws of Texas, in *hæc verba*, over the country which has been taken from her and added to New Mexico. In other words, we should demand the clear and undisputed right to carry our slave property to that country, and have it protected and secured to us after we get it there; and we should demand a continuation of this right and of this security and protection.

"We should demand the same right to go into all the territories with our slave property, that citizens of the free states have to go with any species of property, and we should demand for our property the same protection that is given to the property of our northern brethren. No more, nor less.

"We should demand that Congress abstain from all interference with slavery in territories, in the District of Columbia, in the states, on the high seas, or anywhere else, except to give it protection, and this protection should be the same that is given to other property.

"We should demand a continuation of the present fugitive slave law, or some other

law which should be effective in carrying out the mandate of the Constitution for the delivery of fugitive slaves.

"We should demand that no state be denied admission into the Union, because her constitution tolerated slavery."

Is there anything asked for in all this which the friends of the compromise are not constantly insisting we now have? And yet the writer of this pamphlet falsely asserts that I have demanded a *repeal* of the compromise, and the substitution of other legislation in its place. No such thing is true. I have only asked that the friends of the compromise at the North should execute it as its southern friends *say* they understand it; and why shall southern men shrink from this demand if they are sincere in their declarations? *They know perfectly well that their interpretation is repudiated by their northern allies, and therefore it is that they shrink from the test of making the demand.*

Mississippi has declined making any demands, and of course my proposition falls to the ground. No one could suspect me of the extreme folly of urging these or any other demands, after the state had decided that she would do nothing.

I present these extracts from the Ellwood Springs speech:—

"I have great confidence that the government may be brought back to its original purity. I have great confidence that the government will again be administered in subordination to the Constitution; that we shall be restored to our equal position in the confederacy, and that our rights will again be respected as they were from 1787 to 1819. This being done, I shall be satisfied—nothing short of this will satisfy me. I can never consent to take a subordinate position. By no act or word of mine shall the South ever be reduced to a state of dependence on the North. I will cling to the Union, and utter its praise with my last breath, but it must be a Union of equals; it must be a Union in which my state and my section is equal in rights to any other section or state. I will not consent that the South shall become the Ireland of this country. Better, far, that we dissolve our political connection with the North than live connected with her as her slaves or vassals. The fathers of the republic counselled us to live together in peace and concord, but those venerable sages and patriots never counselled us to surrender our equal position in the Union.

"Let me say to you, in all sincerity, fellow-citizens, that I am no disunionist. If I know my own heart, I am more concerned about the means of preserving the Union, than I am about the means of destroying it. The danger is not that we shall dissolve the Union, by a bold and manly vindication of our rights; but rather that we shall, in abandoning our rights, abandon the Union also. So help me God, I believe the submissionists are the very worst enemies of the Union."

Why was all this passed over in silence?

I might show how, in many other instances, I have been treated with the same gross injustice which has marked those that I have now pointed out; but to pursue the subject farther would be tedious and unprofitable.

"*There are my speeches, and there my votes, I stand by and defend them. You say for these my country will repudiate me. I demand a trial of the issue.*" This was my language in the first speech made by me after my return from Washington. I repeat it now. I said then, as I say now, that the charge laid against me that I was, or ever had been, for *disunion*, or *secession*, was and is FALSE and SLANDEROUS.

I stand by my votes as they were *given*, and by my speeches as they were *made*. I am not responsible for speeches made for me by others; nor will I consent to be tried on the motives which my enemies charge to have influenced my votes. It is easy to publish garbled extracts

from any man's speeches, and it is quite as easy to attribute to any man bad motives for his votes. I am not to be tried, thanks to a free government, in a STAR CHAMBER, before perjured judges, but at the ballot box, by a free people.

I am not surprised to find myself assailed with malignity, and least of all does it surprise me that these assaults come from Natchez. I was never a favorite with certain men in that city, and if it should ever fall out that they speak well of me, I shall indeed wonder what great sin I have committed against republican institutions.

When I heard that a large sum of money had been subscribed by my enemies, and that my defeat was one of the great ends to be obtained by it, I conjectured that the old Federalists were on their walk, and that a plentiful shower of slander and defamation might be expected. I have not been disappointed. These attacks will, no doubt, be kept up until after the election, and many of them will, necessarily, go unanswered. I cannot be everywhere in person, and I have not the means of publishing and circulating documents against this regular combination, controlling, as it does, its thousands and its tens of thousands of dollars.

It ought to be borne in mind how easy it is to misconstrue and misrepresent the acts and speeches of a public man. Taking into account the length of time that I have been in the public service, it is rather a matter of surprise with me that my enemies have found so little to carp at. The *circumstances* under which I have spoken or acted are, of course, very *conveniently* forgotten, and nothing is remembered but such words or acts as may be turned to my disadvantage. These are eagerly seized upon by my enemies, and held up to public gaze; and if the public indignation fails to rise, they then torture my words, and give them forced constructions, so as to make me say what, indeed, I never thought of saying. No man ever yet spoke so explicitly as to escape the misconceptions of the weak, or the misconstructions of the corrupt and designing. Not even the inspired writers have escaped this common fate. The Atheist proves, to his own satisfaction at least, that there is no God, and, taking the Bible for his text, he undertakes to prove that the Bible is a fiction. Volney, Voltaire, and Tom Paine, have each made his assault upon the divinity of the Saviour; each has had his proselytes; and each based his argument upon the words of inspired writers. These things being true, what folly it is for an ordinary man to hope for escape from false interpretations, misconstructions and misrepresentations! I know my own meaning better than any other man, and after sixteen years of public service, during all of which time I never practised a fraud or deception upon the public, I confront my enemies, and tell them they SLANDER me, when they charge that I am now, or ever have been, the SECRET or OPEN advocate of disunion or secession.

I am no more a secessionist, because I think a state has a right to secede, than are my enemies revolutionists, because they maintain the right of revolution.

In days gone by, I denounced the United States Bank, the protective tariff, and other acts of the general government, without incurring the charge of being a disunionist. I opposed and denounced the compromise, but I did not thereby make myself a disunionist. I thought, in the beginning, that it inflicted a positive injury upon the South; and I

think so now. This opinion is well settled, and is not likely to undergo any material change. I gave my advice freely, but never obtrusively, as to the course which I thought our state should pursue. That advice has not been taken. Mississippi has decided that submission to, or acquiescence in, the compromise measures, is her true policy. As a citizen, I bow to the judgment of my state. I wish her judgment had been otherwise; but from her decision I ask no appeal. Neither as a citizen nor as a representative, would I disturb or agitate this or any other question after it had been settled by the deliberate judgment of the people.

I never have, and I never will introduce the subject of slavery into Congress. When it has been introduced by others, I have defended the rights of my constituents, and, if re-elected, I will do so again.

In the approaching election, I ask the judgment of my constituents on my past course. I claim no exemption from the frailties common to all mankind. That I have erred is possible, but that the interests of my constituents have suffered from my neglect, or that I have intentionally done any act or said anything to dishonor them in the eyes of the world, or to bring discredit upon our common country, is not true. In all that I have said or done, my aim has been for the honor, the happiness, and the true glory of my state.

I opposed the compromise with all the power I possessed. I opposed the admission of California, the division of Texas, the abolition of the slave trade in the District of Columbia, and I voted against the Utah bill. I need scarcely say that I voted for the Fugitive Slave bill, and aided, as far as I could, in its passage. I opposed the compromise.

I thought, with Mr. Clay, that "it gave almost everything to the North, and to the South nothing but her honor."

I thought, with Mr. Webster, that the "South got what the North lost—and that was nothing at all."

I thought, with Mr. Brooks, that the "North carried everything before her."

I thought, with Mr. Clemens, that "there was no equity to redeem the outrage."

I thought, with Mr. Downs, that "it was no compromise at all."

I thought, with Mr. Freeman, that "the North got the oyster and we got the shell."

I thought, at the last, what General Foote thought, at the first, that "it contained none of the features of a genuine compromise."

And finally, and lastly, I voted against it, and spoke against it, BECAUSE it unsettled the balance of power between the two sections of the Union, inflicted an injury upon the South, and struck a blow at that political equality of the states and of the people, on which the Union is founded, and without a maintenance of which the Union cannot be preserved.

I spoke against it, and voted against it, in all its forms. I was against it as an *Omnibus*, and I was against it in its details. I fought it through from Alpha to Omega, and I would do so again. I denounced it before the people, and down to the last hour I continued to oppose it. The people have decided that the state shall acquiesce, and with me that decision is final. I struggled for what I thought was the true interest and honor of my constituents, and if for this they think me

worthy of condemnation, I am ready for the sacrifice. For opposing the compromise, I have no apologies or excuses to offer; I did that which my conscience told me was right, and the only regret I feel is that my opposition was not more availing.

A. G. BROWN.

GALLATIN, September 15, 1851.

NOTE.—As the district will, no doubt, be flooded with all manner of publications, and traversed by all sorts of speakers, I must again remind my friends that the Congressional Globe, containing a perfect record of all my votes, speeches, motions and resolutions, may be found in the clerk's offices of each county. It was placed there by me for inspection, and by it, as the official record, I am willing to be tried. When my enemies are found peddling newspapers and pamphlets, without names, giving accounts of my actings and sayings, I hope my friends will appeal to this record, and insist that I shall be tried by that, and not by the statements of my enemies.

A. G. B.

## S P E E C H

DELIVERED AT ELLWOOD SPRINGS, NEAR PORT GIBSON, MISS.,  
NOVEMBER 2, 1850.

MR. BROWN said:—FELLOW-CITIZENS: I shall speak to you to-day, not as Whigs, not as Democrats, but as citizens of a common country having a common interest and a common destiny.

The events of the last ten months have precipitated a crisis in our public affairs which many of the wisest and sagest among us have fondly hoped was yet distant many long years.

It is not my purpose to enter upon a critical review of the late most extraordinary conduct of the President and of Congress. I am not at liberty to suppose, that a people whose dearest rights have been the object of attack for ten months and more, have failed to keep themselves informed of the more prominent events as they have transpired. We ought, to-day, to inquire what is to be done in the future, rather than what has been done in the past.

I confess my inability to counsel a great people as to the best mode of proceeding in an emergency like the present. Instead of imparting advice to others, I feel myself greatly in need of instruction. But, I will not on this account refuse to contribute an expression of my own best reflections, when, as in this instance, I am called upon to do so.

To the end that you may clearly understand my conclusions, it will be necessary for me to present a brief summary of the events which have brought us to our present perilous condition. To go no further back than the last year, we shall find that in Mississippi, at least, the great body of the people were aroused to a sense of the impending danger. At a meeting assembled in the town of Jackson early in the last year, both Whigs and Democrats united in an address to the country, giving assurance that the time had come for action.

Gentlemen of high character, of great popularity, and merited influence, headed this meeting; a convention of the state was recommended, and every indication was given to the country that, in the judgment of

these gentlemen, the time had actually come for bold and decisive action. This movement was seconded in almost every county in the state; and wherever the people assembled, delegates were appointed to a general state convention; and in every instance, so far as I am informed, these delegates were chosen from the two great political parties, one-half Whigs and the other half Democrats. The contemplated convention assembled at Jackson, in October, and recommended a convention of the Southern States, to assemble at Nashville, at some future day, to be agreed upon among the states. The Mississippi movement was responded to with great unanimity in several of our sister states—in Virginia, South Carolina, Georgia, Alabama, and Florida. There seemed to be for a time, a very general and united sentiment in favor of the proposed convention at Nashville. The scheme was not without warm and influential friends in North Carolina, Tennessee, Arkansas, Louisiana and Texas. The other slaveholding states, to wit, Maryland, Kentucky, and Missouri, gave little or no indication of a disposition to favor it. Early in the autumn of 1849 some of the first friends of the southern movement began to falter; and, as time advanced, they continued to recede from their bold stand in defence of the South. The secret influences which were at work to produce these unhappy results, will be found, I apprehend, elsewhere than in the places now pointed out. We are now told by some, that they discovered a better state of feeling at the North toward the South. Others pretend to have been convinced that the movement was premature, and calculated to embarrass the action of Congress; whilst a much more numerous, and a much more dishonest class, pretend to have discovered that this convention was to be nothing less than an assemblage of conspirators, treasonably bent on the destruction of the Union.

Whilst all this was going on, the sagacious politician and the man of thought did not fail to see the true reasons for all this infidelity to a once cherished and favorite measure. The truth was, that ambitious and aspiring politicians had discovered that the southern movement was distasteful to General Taylor, General Cass, and other distinguished gentlemen, then high in the confidence of their respective party friends. The movements in California began to develop the true policy of General Taylor, and the "Nicholson Letter" had received a new reading from General Cass. It became apparent that the South must be sacrificed, or party leaders repudiated, and party ties obliterated, and politicians had begun to take sides accordingly, when Congress assembled in December. Up to this time, however, there remained enough of southern influence to keep a powerful phalanx of southern men closely allied for common defence. The effort to organize the House of Representatives, made it manifest, that the South meant something more than an idle bravado in the course she had taken. For almost an entire month, the first successful step in the election of a Speaker had not been taken; and at last, when Mr. Cobb was chosen, it was by a plurality, and not, as usual, by a majority of the votes given. At this time, there was manifested the most determined spirit in defence of the rights of the South. Still, the close observer could not fail to see that the insidious spirit of party was busy at work.

President Taylor transmitted his annual message to Congress, and General Cass treated us to another reading of the "Nicholson Letter."



The President's message did not lift the curtain high enough to exhibit all that had been done in California. He gave us a bird's eye view, and told us to go it blind for the balance. He intimated that he had very little to do with the proceedings in California; yet he presented a paper which he denominated the constitution of California; and in two several communications, he pressed the consideration of that paper upon Congress, and he earnestly recommended the admission of the state of California into the Union at an early day.

These proceedings, and these earnest recommendations, could not fail to elicit a searching investigation on the part of southern members. It became a matter of interesting inquiry, as to who made the pretended constitution; how the people came to be assembled for that purpose; who appointed the time for holding the elections; who decided on the qualification of voters; who decided that California had the requisite population to entitle her to one or more representatives in Congress, without which she could not be a state. It was known that Congress had never so much as taken legal possession of the country, and it became a subject of anxious inquiry to know who it was that had kindly performed all the functions usually devolved on Congress; who it was that, in aid of the legislative power of the country, had taken the census to ascertain the population; had passed upon the qualification of voters; had appointed the time, place, and manner of holding elections; who it was, in short, that had done all that had usually been required preparatory to the admission of a new state into the Union.

It was seen at once that no census had been taken; and although the Constitution required that the representatives should be apportioned among the states according to population, no steps had been taken to ascertain whether California had the requisite population to entitle her to one member, whereas she was claiming two. It was seen that the time, place, and manner of holding the elections, had all been arranged by a military commander, notwithstanding the Constitution required that this should be done by law. It was seen, and admitted on all hands, that California was asking admission on terms wholly and entirely different from those on which other states had made similar applications. Gentlemen favoring her admission, were wont to answer our objections with a shrug of the shoulders, and a lamb-like declaration that "there had been some irregularity." Irregularities, fellow-citizens! Shall conduct like this, pass with that simple and mild expression that it was "irregular?" Was it nothing more than irregular to dispense entirely with taking a census? Was it only a little irregular to permit everybody to vote—white, black, and red; citizens, strangers, and foreigners? Was it simply irregular for General Riley, by a military proclamation, to decide the time, place, and manner of holding the elections? Was it, I ask you, fellow-citizens, nothing more than an irregular proceeding, for a military commander to dispense entirely with the authority of Congress, the law-making power, and of his own will to set up a government hostile to the interests and rights of the Southern States of this Union? If the rights and interests of all the states had been respected, and all had concurred in the opinion that the proceeding had only been a little irregular, it might have been passed over with a mental protest against a recurrence of its like in future.

But when it is seen that these "*irregularities*" amount to a positive

outrage upon fourteen states of the Union, an outrage against which these states earnestly protested, it becomes us to inquire more seriously into the causes which led to their perpetration, and to take such decisive measures as shall protect us against like "irregularities" in future. Does any man doubt that slavery prohibition lay at the bottom of all the "irregularities" in California?

Does not every one know, that but for the question of slavery, these unprecedented outrages would never have been perpetrated? Is there a gentleman outside of a lunatic asylum who does not know that if California had framed a pro-slavery instead of an anti-slavery constitution, her application for admission into the Union would have been instantaneously rejected? And yet, in view of all these and a thousand other pregnant facts, we are expected to content ourselves with a simple declaration that "the proceeding was a little *irregular*, but it was the best that could be done." What, fellow-citizens, does this whole matter amount to, as it now presents itself? The southern people joined heart and hand in the acquisition of territory—shed their blood—laid down their lives—expended their treasure in making the acquisition, and forthwith the federal authority was employed to exclude them from all participation in the common gain. The threat was uttered, and kept constantly hanging over them, that if they dared enter those territories with their slave property, it would be taken from them. Thus were they intimidated and kept out of the country; no slave-owner would start to California with his slave property, when Congress was day by day threatening to emancipate his negroes, if he dared to introduce them into that country. Not content with thus intimidating southern property, the federal power was employed in instigating an unauthorized people to do that which the Congress of the United States had not the power to do, to wit, to pass the "Wilmot proviso."

It is well known that the California constitution contains the "Wilmot proviso" in terms. It is equally well known that this proviso has been sanctioned by Congress, and that the sanction of Congress imparts to it its only vitality. Without that sanction, it is a nullity, a dead letter, an absolute nought. Who, then, is responsible for it but Congress—the Congress which gave to it its sanction, and thereby imparted to it vitality, and moved it into action? Congress, we are told, could not, and dared not pass the proviso; but the people of California could propose it, and Congress could sanction it, and thereby give it existence. The people of Ohio, Pennsylvania, New York, and other states, might ask Congress to pass the "Wilmot proviso," but Congress dare not do it, because there was no power under the Constitution to authorize it; but if the people of California asked it, then it was a very different question—then Congress had all the constitutional power which the case required. Let the truth be told. The Wilmot proviso was an old question; it had been discussed—its enormity had been exposed, and the mind of the South was firmly and fixedly made up not to submit to its passage. It was necessary, therefore, to take this new track, and before the South could recover from her surprise, pass the odious proviso, and then present the naked issue of a humiliating submission on the one side, or disunion on the other.

Who, fellow-citizens, were these people of California, whose voice has been so potential in the work of your exclusion, your humiliation, and

your disgrace?—were they American citizens? No, sir, no! they were adventurers from all parts of the world. In this blood-bought country may have been found the Sandwich Islander, the Chinese, the European of every kingdom and country. That there were many American citizens in the country, is most true; but the whole were mixed up together, and all voted in the work of your exclusion. How humiliating to a Southron, to see his own government thus taking sides against him, and standing guard, while foreign adventurers vote to take from him his rights, and then to see that government seizing hold of such a vote and holding it up as a justification of the final act of his ignominious exclusion. Can any true son of the once proud and noble South witness these things without a blush? Does patriotism require us to hug these outrages to our bosom? Must we forget our natural interests, and kiss the hand that inflicts these cruel blows? Have we sunk so low that we dare not complain of wrongs like these, lest the cry of disunion shall be rung in our ears?

It would have been some consolation to know that the framers of this California constitution meant to live under it themselves. Even this little boon is denied us. We all know that the men who have gone to California are mere sojourners there; they mean to stay a little while, and then return to their homes in other parts of the world. Hundreds and thousands have already left the country, and others will follow their example. Not one-half of the persons who aided in the formation of the so-called constitution of California are there now; and in a year or two more the population will have undergone an entire revolution.

We have heard that there were many hundred thousand people in California. The number in the country at the time the constitution was framed has been estimated at two hundred thousand or more, and this has been constantly urged in excuse for their assumption of the right to make a constitution and set up an independent state government.

When asked by what authority a few interlopers from abroad undertook to snatch from the rightful owners the rich gold mines on the Pacific, and to appropriate to free soil all that vast territory lying between the thirty-second and forty-second degrees of north latitude—embracing an area larger than the states of Louisiana, Mississippi, Tennessee, and Alabama—we have been told they were a great and growing people; that there were a quarter of a million of inhabitants in the country, and hundreds of thousands on their way there. Let us examine the truth of these bold assertions. If there is any country on earth where there are no women and children, where the whole population consists of full-grown men, that country is California. We all know that the emigration has been confined to the adult male population, who have gone on a visit of observation, leaving their families and friends behind, and intending to return. We all know that in the matter of voting there was no restriction; every male inhabitant over the age of twenty-one years was allowed to vote, and on the important question of adopting a state constitution, the poll-books showed less than thirteen thousand voters. If there was a quarter of a million of people in the country, how shall we account for this meagre vote? The fact is, this is but another link in the great chain of deception and fraud by which we have been denied our rights in the country—by which we and our posterity have been cheated out of the most valuable property on earth—by which we have been reduced

to the sad alternative of submitting to the most humiliating deprivation of our rights, or driven to a severance of the bonds which unite us to the North.

If the gross injustice, the deep injury and wrong which we are called upon to suffer, had ceased with the consummation of this California fraud, we might have bent our heads in humiliation and in sorrow, and, without daring to complain of the tyranny of our oppressors, have borne it in silence. But it did not stop here. The cup of our degradation was not quite full to overflowing; and it was determined to wrest from the slaveholding state of Texas, one-third of her rightful territory. In the perpetration of this fraud the North had two powerful allies, and both, I am pained to say, furnished by the South. One was the ten millions of dollars taken from a common treasury, and the other the vote of one-half the southern delegation in Congress.

I hold in my hand a map of Texas. It speaks more eloquently in defence of Texas than the ablest orator has ever yet spoken. Here on this map is the boundary of Texas, as marked first by her sword, and then made legible by the act of her Legislature in December, 1836. See, it extends from the mouth of the Rio Grande to the source of that river, and it reaches to the forty-second degree of north latitude. Here, too, is marked on this map the "Clay compromise line," and the "line of adjustment," as laid down in the final act of dismemberment, commonly known as Pearce's bill. Keep these lines in your memory, fellow-citizens, while we recur for one moment to the history of the reannexation of Texas to the United States.

What is that history? I need not relate the whole of it. I need not say how like an ardent lover we wooed and won this fair daughter of the Saxon blood. Texas was young, blooming, and independent; we wooed her as the lover woos his mistress. She fell into our arms, and with rapturous hearts we took her for better or for worse. Fathers Clay and Van Buren forbade the bans; but the people cried, with a loud voice, "Let the marriage go on." It did go on; Texas merged her separate independence into that of the United States, and here in my hands is the marriage contract. Here is the treaty, here the resolution of annexation. It will be seen that we took her just as she was—just as she presented herself. We took that Texas which lay east of the Rio Grande, and all along that river from its mouth to its source, and south of the 42d parallel of latitude north. We took the Texas which was defined by the act of December, 1836; we took the Texas marked on this map. I hold it up before you. It is a portrait of the fair damsel as she was, before her limbs were amputated by the northern doctors, aided by surgeons Clay, Pearce, Foote, and others from the South.

Turn to the resolutions of annexation. I hold them here; without pausing to read them, I will state what no man can deny. They expressly stipulate, that all that part of Texas lying south of the parallel of 36 degrees and 30 minutes north latitude, shall remain slave territory; and all north shall be free territory after its admission into the Union as states. With this written agreement between the high contracting parties, how can any man come forward and say that Texas never extended to the parallel of 36½ degrees? How dare any man pretend that Texas did not extend north of that line and up to 42 degrees? I will not insult your understanding by debating so palpable a proposition

before you. It is as clear as the sun in yonder heavens, that at the period of annexation, the whole country supposed we were acquiring all the territory east of the Rio Grande, and up to 42 degrees. The only party on earth who expressed a doubt on this point was Mexico, and for acting on her expressed doubts, we went to war with her, all parties in this country at least uniting in the war; and when we had whipped her, and obtained not only her recognition of the Texas boundary, but a cession of New Mexico and California, into the bargain, what do we hear? Why, that Texas never owned one foot of territory north of 36½ degrees. Though we agreed that all of Texas south of 36½ should be slave territory, and all north of that line free territory, we are told that, in truth and in fact, Texas only extended to some undetermined point between 32 and 34 degrees of latitude north. Why do men thus stultify themselves? Why do men speak and attempt to reason for the purpose of throwing a cloud over the title of Texas to this territory? Need I tell you, fellow-citizens, that slavery! slavery!! slavery!!! and nothing but slavery, is at the bottom of all this business.

Take the question of domestic slavery out of the way, and this whole dispute about the true boundary of Texas could and would have been settled in nine hours, and in a manner most satisfactory to all parties. It was precisely because Texas was a slaveholding state, and her soil slave soil, beyond all cavil or dispute, that it was found important by the North to cut these ninety-three thousand sections off and attach them to New Mexico. As a part of Texas it was secure to the South; as a part of New Mexico, the North had the power and the will to make it free soil. If Texas and New Mexico had both been free, or both slave states, there would have been little or no dispute about the true boundary between them. Texas is, and must ever remain, a slaveholding state; New Mexico, if not already free soil, is under the dominion of northern power, and will be made so in due season. In these facts will be found the only reason for the nine months' struggle in Congress on the question of boundary. The northern mind is fully made up that no more slave states shall be added to the Union. This is more distinctly announced than any other article in their political creed. We all know this. And let me ask you, fellow-citizens, if there is one man among you all, who supposes that northern politicians, resolved as they all are to limit the slave states to their present number, would be so ridiculously silly as to cut off ninety-three thousand square miles of slaveholding Texas for the purpose of making of it one or two additional slave states? The North has the power to do as she pleases, and no man in this country doubts that she will please to make free territory of these ninety-three thousand square miles which she has wrested from Texas, with the aid of ten millions of dollars and a large number of southern votes.

I shall never forget the hour when this measure of gross iniquity to the South passed the House of Representatives. On Wednesday we defeated it by forty-four majority; on Thursday we defeated it again by eight majority; on Friday they carried it over us by ten votes; and when the result was announced, there went up from the lobbies, from the galleries, and from the floor of the Hall of Representatives, one long, loud, wild, maniac yell of unbridled rejoicing—the South was prostrate, and Free Soil rejoiced. The South was degraded, fallen, and her enemies rioted. Ten millions of dollars had been flung to the hungry pack

who hang like wolves around the treasury, and there was frantic joy in all their hearts and upon all their tongues. They assembled on the banks of the Potomac, and in utter defiance of every decent regard for the father of his country—they assembled under the very shade of the Washington monument—and there fired a hundred guns. Thus did they, in manifestation of their wild rejoicing over the prostrate South, and their own clutching of the ten millions of dollars. Nor did they pause here, but with drums beating, fifes blowing, and banners streaming, they paraded the streets of Washington. They called out Mr. Clay, and he spoke to them; they called out Mr. Cobb, Mr. Douglas, Mr. Foote, and I know not who else, and they all spoke to them. It was a night of riot and revelry. The foul deed had been done, and when there should have been sorrow and mourning, there was ecstasy and the wild notes of untamed rejoicing.

I left the street, filled as it was with this motley crew of free negroes and half-clad boys, bankers, brokers, barbers and beggars, northern Free Soilers and southern *patriots*—ay, southern patriots—patriots whose affections had out-grown their country, and who had taken “all the world and the rest of mankind” into their tender keeping—I left it and them, and retired to my private chamber, there to brood over the sorrows of my stricken and fallen country. But I was not long left to myself and the sorrows of my country. We were summoned to yet another sacrifice. The South no longer had the power of resistance, and a generous foe would not have stricken her again. But the northern wolf had tasted blood. The southern shepherd was unfaithful to his flock, and another lamb was taken.

The slave trade in the District of Columbia was abolished. It was by this name they called the deed. It was more than this. It was an act to punish the intentions of masters and to emancipate their slaves. The bill declares that if slaves are brought to the District of Columbia for the *purpose* of being sold in said district, or anywhere else, they shall be free. The law does not punish the act of selling or offering to sell, but it punishes the *intention* to sell; and how, pray? Not by fining the master, or by sending him to prison, but by emancipating his slave. How this law is to operate in practice, I need not say. It is to all intents and purposes an act of abolition. Under it, men's intentions will be judged of by swift juries, by abolition juries, and their slaves set at liberty. Does any man doubt that abolition juries will be found in the District of Columbia, and in the city of Washington? There are in the district *sixteen thousand* free negroes, and *twenty-three hundred* slaves. Slavery is wearing out there, and to-day, fellow-citizens, I would as soon risk a New York or Philadelphia jury on a question involving slavery, as a Washington City jury. The people there are growing more and more hostile to this species of property every day, and I pity the master who has his *intentions* tried before a jury taken from among them.

These, fellow-citizens, are the healing measures—the measures of peace. This the vaunted adjustment of which so much has been said, and for the passage of which the cannon has been fired, the drums beat, fifes blown, banners displayed, and all the evidences of national rejoicing exhibited.

I cannot believe in the sincerity of these singular demonstrations. I cannot think that our ignominious exclusion from California affords

cause for joy. I cannot believe that the bill to punish a master's intention, by emancipating his slave, has sent joy to southern hearts. I do not believe that the dismemberment of Texas has filled the South with rejoicing. Men make up their minds to submit to wrong, and pride induces them to put the best possible face upon it. Men whose hearts are wrung with agony, will smile, because they are too proud to weep. Men, like boys, may whistle to keep their courage up. But when causes like these exist for mourning, it is useless to tell me that men with southern hearts rejoice—the thing is impossible.

I am told that Texas has not been dismembered. That in the kindest spirit, the United States has proposed to pay her ten millions of dollars, to relinquish her claim to the territory which has been annexed to New Mexico. Let us examine the sincerity of this statement. The United States, speaking through the Executive, and through Congress, says to Texas: "We want this country, and we mean to have it; you are weak, and we are strong. Give up the country quietly, and we will pay you ten millions of dollars; refuse, and here is the army, the navy, and the militia." Look at the power of the United States; look at the threat of the President to reduce Texas to submission. Look at the conduct of southern senators and representatives. Look at all this, and then turn your eyes towards Texas; see her feeble and weak, without money, without arms; in debt, and without credit; and tell me if it is left to her free choice to determine whether she will accept or reject this proposition? The overgrown bully approaches a weak and feeble man, without friends and without the means of defence, and says, "I want your land; give it up quietly, and I will pay you for it, and if you refuse, bear in mind, I am stronger than you, and here are my guns, here my daggers, and there my armed servants to do my bidding. Choose what you will do." Will not every man's sense of justice revolt at conduct like this? Is the man thus treated, a free agent? In thus taking his property, has not an outrageous wrong, a positive robbery, been perpetrated? I leave it to the good sense of this audience to give the answer.

But we are told that Texas is to be liberally paid, and therefore, if she accepts the proposition and gives up the land, we have no just cause of complaint. I do not know what sum of money would be liberal compensation to a sovereign state for being despoiled of one-third of her territory. For myself, I would not consent to sell the poorest county in Mississippi to the Free-Soil party for all the gold on this side of the Atlantic. But when I hear of the liberality of this proposition, it leads me to inquire who pays the money. We can all afford to be liberal at the expense of other people. Do the Free-Soilers pay this ten millions of dollars? Not at all; they get the land, that's clear, and that we pay the greater part of the money is equally clear. The money is to be paid from the national treasury. I am not about to launch into any discussion of the finances, but I want to show who it is that must pay this ten millions of dollars to Texas. We derive our national revenue chiefly from a duty levied on goods imported into the country. Now, it will not be denied that these imports are nothing else than the proceeds of the exports. It is perfectly clear that if we cut off the exports, we suspend the imports. If we have nothing to sell, we shall have nothing to buy with, and consequently imports must cease; and if imports cease,

revenue will cease. We shall export this year, in cotton alone, near one hundred millions of dollars in value; this will form the basis of one hundred millions of dollars in goods imported.

If the government levies a duty of thirty-five per cent. on these, her revenue from this source alone will be thirty-five millions of dollars. Now, suppose we abstract this cotton from the exports, do we not see that we cut off the imports to a like extent, and in cutting off the imports that we likewise cut off the revenue? But seeing all this, says one, I do not yet perceive that you have shown how it is that the cotton grower pays the revenue. Go with me, if you please, a little further. Suppose my friend who sits before me, and who raises five hundred bales of cotton, shall ship that cotton, and himself dispose of it in Liverpool for twenty-five thousand dollars. Suppose he invests the money in merchandise and lands it in New Orleans. The government charges him a duty of thirty-five per cent. for the privilege of landing his goods. Now answer me this question, would it have been any worse for my friend to have been charged thirty-five per cent. on the value of his cotton as he went out, with the privilege of bringing back his goods free of duty, than it would be to let him take his cotton free of charge and tax him thirty-five per cent. duty on the return cargo? For myself, I cannot see that it would make the least difference whether he paid as he went out, or as he came in. But I am told the planter does not bring back the proceeds of his cotton. He sells it, and the importing merchant brings back the proceeds and pays the duty. Let it be borne in mind that every man who handles the cotton, from the moment it leaves the planter until it comes back in the form of merchandise, handles it on speculation; and I should like to know which one of these speculators it is that loses the thirty-five per cent. which the government collects. The treasury receives the money; somebody pays it; and in my judgment, that somebody is the planter. The slaveholding states furnish two-thirds of our entire exports, and if I am right in this theory, they pay two-thirds of the revenue, and consequently will pay two-thirds, or nearly seven millions of the ten millions of dollars given to Texas for the territory of which she has been so unjustly despoiled.

I beg pardon for this digression, and shall return at once to the subject before us.

What compensation has been offered the South for her interest in all the vast territories derived from Mexico, for this spoliation of Texas, and the emancipation act in the District of Columbia? We are told that the North gave us the fugitive slave law. This, fellow-citizens, was our right under the Constitution. It could not be refused. No man who had sworn to support the Constitution could refuse to vote for an efficient law for the surrender of fugitive slaves, unless he was willing to commit wilful and deliberate perjury. I do not thank the North for passing the fugitive slave law. I will not thank any man or any power for doling out to me my constitutional rights. If the North will *execute* the law in good faith, I shall think better of them as brethren and friends than I now do. Time will determine whether they will do this.

These acts have passed. They are now on the statute books, and the question arises—shall we tamely submit to their operation, and if we resist, in what manner, and to what extent shall we carry that resistance?

I am not appalled by the cry of disunion, so often and so foolishly



raised, whenever resistance is spoken of. There are things more terrible to me than the phantom of disunion, and one of these is tame submission to outrageous wrong. If it has really come to this, that the Southern States dare not assert and maintain their equal position in the Union, for fear of dissolving the Union, than I am free to say that the Union ought to be dissolved. If the noble edifice, erected by our fathers, has become so rickety, worm-eaten, and decayed, that it is in danger of falling every time the Southern States assemble to ask for justice, then the sooner it is pulled down the better. I am not so wedded to the name of Union as to remain in it until it shall fall and crush me.

I have great confidence that the government may be brought back to its original purity. I have great confidence that the government will again be administered in subordination to the Constitution; that we shall be restored to our equal position in the confederacy, and that our rights will again be respected as they were from 1783 to 1819. This being done, I shall be satisfied—nothing short of this will satisfy me. I can never consent to take a subordinate position. By no act or word of mine shall the South ever be reduced to a state of dependence on the North. I will cling to the Union, and utter its praises with my last breath, but it must be a Union of equals; it must be a Union in which my state and my section is equal in rights to any other section or state. I will not consent that the South shall become the Ireland of this country. Better, far, that we dissolve our political connection with the North than live connected with her as her slaves or vassals. The fathers of the republic counselled us to live together in peace and concord, but these venerable sages and patriots never counselled us to surrender our equal position in the Union. By their lives, they gave us lessons in the hornbook of freedom. If Washington could speak to us to-day from the tomb, he would counsel us against submission. He resisted less flagrant acts of usurpation and tyranny, and took up arms against his king. The flatterers of royalty called this treason. If we resist the greater outrages, can we hope to escape the name of traitor?

Let me say to you, in all sincerity, fellow-citizens, that I am no disunionist. If I know my own heart, I am more concerned about the means of preserving the Union than I am about the means of destroying it. The danger is not that we shall dissolve the Union, by a bold and manly vindication of our rights; but rather that we shall, in abandoning our rights, abandon the Union also. So help me God, I believe the submissionists are the very worst enemies of the Union. There is certainly some point beyond which the most abject will refuse to submit. If we yield now, how long do you suppose it will be before we shall be called upon to submit again? And does not every human experience admonish us that the more we yield, the greater will become the exaction of the aggressors? To the man who thinks and says that we have been wronged, and yet submits in sullen silence, I can only say, you reason badly for the Union. But to the man who rejoices in the late action of Congress, who fires cannon, beats drums, and unfurls banners with mottoes of joy written on them—to such a man I can say, with a heart filled with sorrow, however well meant these acts may be, they invite aggression on our rights, and will lead to certain and inevitable disunion.

The best friend of the Union is he who stands boldly up and demands equal justice for every state and for all sections. If I have demanded more than this, convince me, and I will withdraw the demand. But I shall stand unawed by fear and unmoved by flattery in demanding for Mississippi the same justice that is meted out to the greatest and proudest state in the Confederacy.

If the Union cannot yield to this demand, I am against the Union. If the Constitution does not secure it, I am against the Constitution. I am for equal and exact justice, and against anything and everything which denies it.

This justice was denied us in the "adjustment bills" which passed Congress. But we are not to infer that the fault was either in the Union or in the Constitution. The Union is strength, and if not wickedly diverted from its purposes, will secure us that justice and that domestic tranquillity which is our birthright. The Constitution is our shield and our buckler, and needs only to be fairly administered to dispense equal and exact justice to all parts of this great Confederacy.

Has the South justice in California? Have her rights been respected in any part of the territories? Has she been fairly dealt with in the matter of the Texas boundary? Was good faith observed in the passage of the anti-slavery bill for the District of Columbia? Does the North exhibit a spirit of love, charity, good neighborhood, and brotherly kindness in the perpetual warfare which she wages on our property? Is the Union now what it was in 1783? Did our fathers frame a constitution and enter into a union which gave the right of aggression to one-half the states, and obliged the other half to submit without a murmur? Would Washington, and Jefferson, and Madison, have entered into such a union with Adams, and Hancock, and Jay? To all these questions there can be but one answer, we all know. Every thinking, reasoning man knows, that in the war upon slavery, the Constitution and the Union have been diverted from their original purposes. Instead of being shields against lawless tyranny, they have been made engines of oppression to the South. And am I, a southern citizen, to be deterred from saying so by this senseless cry of disunion? Am I to see my dearest rights taken from me, and my countrymen denied all participation in, or enjoyment of the common property, and be afraid to speak? Must I witness the dismemberment of a southern state and a whole catalogue of wrongs, and fail to speak, lest the Union shall crumble and fall about my ears? I hope the Union is made of sterner stuff, but I am free to say, if the Union cannot withstand a demand for justice, I shall rejoice to see it fall.

I will demand my rights and the rights of my section, be the consequences what they may. It is the imperative duty of every good citizen to maintain and defend the Constitution and the Union, and this can only be done by demanding and enforcing justice. Let us make this demand and let us enforce it, and let the consequences rest on the heads of those who violate the Constitution and subvert the Union in this war upon justice, equality, and right.

We are told that our difficulties are at an end; that, unjust as we all know the late action of Congress to have been, it is better to submit, and especially is it better, since this is to be the end of the slavery agitation. If this were the end, fellow-citizens, I might debate the question as to

whether submission would not be the better policy. Such is my love of peace, such my almost superstitious reverence for the Union, that I might be willing to submit if this was to be the end of our troubles. But I know it is not to be the end. I know it has not been the end thus far. What have we seen? On the passage of all these bills through Congress, the North stood shocked and overawed at the enormity of the wrong done the South; but Washington city rejoiced, Baltimore rejoiced, Richmond rejoiced. Instead of the thunder notes of resistance coming back upon the capitol, we were greeted with songs and shouts, and the merry peals of hearts filled with joy. Seward, the abolition senator from New York, encouraged by these indications, introduced a bill to *abolish slavery* in the District of Columbia. It got only five votes. The North had not yet recovered from the shock which a glance at her own bold work had inflicted on her. After a few more days, the news of rejoicing at Louisville, at Augusta, and Nashville, came rolling back upon the wings of the lightning, and Seward asked another vote, and the result was nine in the affirmative. The cautious Dayton, and the still more cunning Winthrop, and men of that class, all the while protesting that it was yet *too soon* to urge that measure. They saw and knew full well that the firing of cannon and beating of drums were empty signs. They judged rightly, that no people rejoice in heart at their own degradation. But this rejoicing still went on; they fired the cannon, and beat the drums, and flung out their banners all over the South—at Natchez and New Orleans, at Mobile and at Jackson, at Memphis and Montgomery. Not only were the Giddingses and the Seward, the Chases, Hales, and Kings, and all the enemies of the South, thus assured that there would be no resistance, but, in the echo of the booming cannon and in the shrill notes of the merry fife, they were assured that the South was filled with rejoicings and merry songs. What was the effect of all this? Why, fellow-citizens, the vote was taken in the House on the bill to abolish slavery out-and-out in the District of Columbia, and it got fifty-two votes, and there were twenty-nine of its friends absent—the largest vote ever given in Congress on the direct proposition. Look at these things. Look to the fugitive slave law in New York, Massachusetts, Ohio, and elsewhere. Look to the late extraordinary triumph of Seward in New York. Look to the success of the Free Soilers in the late elections. Listen to the notes of preparation everywhere in the Northern States, and tell me if men do not wilfully deceive you when they say that the slavery agitation is over. I tell you, fellow-citizens, it is not over. It never will be over so long as you continue to recede before the pressure of northern power. You cannot secure your rights; you cannot save the Union or the Constitution, by following the timid counsels of the submissionists. Pursue these counsels, and they will lead to a sacrifice of all that we hold dear—of life, liberty, property, and the Union itself. By a submission you may secure, not a union, but a *connection* with the North. It will be such a connection as exists between Ireland and England, Poland and Russia, Hungary and Austria. It will not, it cannot be the Union of our fathers—it cannot be a union of equals.

You can save the Union, fellow-citizens, and you can do it by a stern resistance to wrong.

I have seen the Free Soil elephant of the North. He is governed by

the instincts of his species. He never crosses a bridge without first pressing it with his foot to see if it will sustain his ponderous frame. Make the bridge strong, and he will cross; but let it be weak, and he will stay on his own side. If you want this Free-Soil elephant among you, make the bridge strong, *give him assurance of submission*, convince him that he may pass the gulf that divides you in safety, and he will come among you and destroy you. If you would keep him out, show him the yawning chasm, and convince him that if he attempts to cross he will be precipitated to the bottom, and, my life upon it, he will be content to remain at home.

The North will inflict all that the South will bear, even to a final emancipation of the negro race. She will inflict nothing that you will not bear.

I am detaining you, fellow-citizens, beyond the time which I allotted to myself; allow me to bring these remarks to a close.

I am for resistance. I am for that sort of resistance which shall be effective and final. Speaking to you as a private citizen, I shall not hesitate to express my individual opinions freely and fearlessly as to the best mode of resistance. I do not ask—I do not expect any one to adopt my opinions. They are the result of my own best reflections, and they will not be abandoned, except to embrace others more likely to prove effective in practice.

I approve of the governor's convocation of the legislature. The measure was called for by the emergencies of the hour, and was, in my judgment, eminently wise and proper.

I trust the legislature will order a convention of the state. Give the people a chance to speak. Let the voice of the sovereign state be heard speaking through a regularly-organized convention, and it will command respect. Our bane has been our divisions. We never can unite as one man—our people are too much imbued with the early prejudices of their native homes. Congregated from all the states of the Union, and from many foreign countries, they never can unite on one common platform. But the majority can speak, and if that majority speaks through a convention legally elected, its voice will silence dissension. It will be the voice of a sovereignty—it will command respect.

What if three-fourths of the people of Mississippi are for resistance, the other fourth makes as loud a noise, and their voice sounds as large in New York or Massachusetts. What if five-sixths of your delegation in Congress have spoken the sentiment of the state, the other sixth has protested that he speaks the voice of the state. Let the people speak! Let them speak through the ballot-box. Let a convention be called, and through that convention, let us speak the sentiments of the sovereign state.

I should hope that such a movement in Mississippi would be responded to in most, if not all the Southern States. I should have great confidence that South Carolina, Georgia, Alabama, and Florida, would meet us on a common platform, and resolve with us to stand or fall together.

I speak with great deference, but with the utmost freedom as to what course Mississippi and the other states should pursue. I speak for myself alone, and no man or party is in any way responsible for what I say.

We should demand a restoration of the laws of Texas in *hæc verba* over the country which has been taken from her and added to New Mexico.

In other words, we should demand the clear and undisputed right to carry our slave property to that country, and have it protected and secured to us after we get it there; and we should demand a continuation of this right and of this security and protection.

We should demand the same right to go into all the territories with our slave property, that citizens of the free states have to go with any species of property, and we should demand for our property the same protection that is given to the property of our northern brethren. No more, nor less.

We should demand that Congress abstain from all interference with slavery in the territories, in the District of Columbia, in the states, on the high seas, or anywhere else, except to give it protection, and this protection should be the same that is given to other property.

We should demand a continuation of the present fugitive slave law, or some other law which should be effective in carrying out the mandate of the Constitution for the delivery of fugitive slaves.

We should demand that no state be denied admission into the Union, because her constitution tolerated slavery.

In all this we should ask nothing but meagre justice; and a refusal to grant such reasonable demands would show a fixed and settled purpose in the North to oppress and finally destroy the Southern States. If the demands here set forth, and such others as would most effectually secure the South against further disturbance, should be denied, and that denial should be manifested by any act of the Federal Government, we ought forthwith to dissolve all political connection with the Northern States.

If the Southern States, in convention, will lay down this or some other platform equally broad and substantial, and plant themselves upon it, I know there are hundreds and thousands of good men and true at the North, who will take positions with them, and stand by them to the last. In the present condition of our counsels, we can never expect support from the North. Distracted and divided at home and in Congress, those at the North who are disposed to aid us, are left in doubt as to which is the true southern side of the question. Suppose Mr. Dallas, Mr. Paulding, or some other friend of the South, should undertake our defence, would he not be met with language like this: "Look at Clay, look at Benton, look at Houston, look at hundreds in the South—listen to the roar of their cannon and the music of their drums, and do you, sir, pretend to know more of southern rights than the South knows of her own rights." What could our northern friends say to a speech like this? No, fellow-citizens, no! Do not place your friends at the North in this condition. Erect a platform on which they may stand and fight your battles for you. When the Free-Soiler points to the Clays, the Bentons, the Houstons, and others, enable your friends to point to Mississippi and Georgia, and Alabama, and South Carolina, assembled in conventions. And when the Free-Soiler appeals to the cannon roaring and the drums beating, let your friends appeal to the voice of sovereign states demanding justice, equality, and liberty on the one side, or disunion on the other.

If I hesitate to embrace the doctrine of disunion, it is because the North has, to some extent, been inveigled into her present hostile position towards the South by our own unfaithful representatives, and encouraged to persevere in the mad policy by the ill-advised conduct of

some of our own people. A portion of the southern senators and representatives voted for the admission of California, and large numbers sustained the Texas spoliation bill. The whole advantages of these measures inured to the benefit of the North, and we could not reasonably expect northern men to do more for us than our own representatives. We have great reason to complain of the North, but we have much greater reason to complain of our own unfaithful servants. The North is deceived as to the true condition of southern sentiment, but they have been deceived by our own people. Let us undeceive them. Let us prepare to strike for justice, equality, liberty. But let us first give fair warning, and let that warning be given in an authentic and authoritative form. Let us do this, and if then, we are forced to strike, we shall be sustained by all good men, we shall be sustained by God, and our own clear consciences.

These are my opinions, fellow-citizens, freely expressed. I do not ask you to sanction them or to adopt them as your own, unless you approve them. I have but one motive, and that is to serve my afflicted country. Wholly and entirely southern in my sentiments and feelings, I have never debated with myself what course it were best for me to pursue. Ambition might have led me to the North, but as I loved the land of my birth more than the honors and emoluments of power and of place, I have taken sides with the South. Her destiny shall be my destiny. If she stands, I will stand by her, and if she falls, I will fall with her.

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## THE SOUTHERN MOVEMENT—MISSISSIPPI POLITICS.

SPERCH IN THE HOUSE OF REPRESENTATIVES, MARCH 14, 1852, ON THE SOUTHERN MOVEMENT AND MISSISSIPPI POLITICS.

It is not my purpose, Mr. Chairman, to address the House at all in reference to the bill now before it. I propose, in the opening of my remarks, to take a brief retrospect of the rise, progress, and fall, of the southern movement. It is very well known, sir, not only to the members of Congress, but to the whole country, that the continued action of the northern people, and of the Northern States, upon the subject of the domestic relations existing in the South, between the master and the slave, had at one time wrought up the southern mind to a very high degree of exasperation. Apprehensions were freely expressed, and doubtless generally entertained, that some great disaster was likely to befall the country, growing out of this excitement. In this state of public feeling, during the Thirtieth Congress, a gentleman, then a representative from one of the districts in the state of New York [Mr. Gott], introduced a resolution, preceded by what the southern members believed to be a most insulting preamble. This preamble, insulting though it certainly was, did not propose any legislative action. The resolution directed a very simple, but a very important inquiry to be made. It directed the committee for the District of Columbia, to inquire into the expediency of abolishing the slave trade in this District. The passage

of this resolution gave offence to the whole southern delegation, and they commenced, at once, manifesting their hostility to this movement in a manner not to be misunderstood.

A distinguished gentleman in the other branch of the legislature, from my own state, and now its governor, came, as the older members of Congress know very well, into this House and solicited members of Congress to sign their names to a call for a meeting of southern senators and representatives. In obedience to this call, a meeting assembled in the Senate Chamber, over which a venerable senator from the state of Kentucky [Governor Metcalfe] was called to preside. Here, sir, I date the rise of the southern movement. From this point it commenced its progress. But for this movement, I undertake to say, the southern Democracy was not responsible. That meeting was a joint assemblage of the southern Whigs and of the southern Democrats. There were Whigs who absented themselves; and there were Democrats who absented themselves; but the southern delegation in Congress generally, and without reference to party, was responsible for the meeting and for its proceedings. That meeting put forth an address to the southern people, written, as it is said, and I have no doubt correctly, by the late venerable and distinguished senator from South Carolina [Mr. Calhoun]. It was such a paper as was intended to produce, as it certainly did produce, a most profound sensation upon the southern mind. Upon my return to Mississippi, I found a very high degree of excitement—an excitement not confined to the Democrats, but pervading all parties, Whigs as well as Democrats. A proposition had already been made, and was then being actively urged, for a convention of our state—a popular convention—to take into consideration the relations then subsisting between the North and the South, growing out of the institution of domestic slavery. A number of gentlemen, of both political parties, published a call to the people, inviting them to assemble in convention. This call was the first advance step of the southern movement, and for it, both Whigs and Democrats in my state were alike responsible. In obedience to it, the people, without reference to party, assembled in primary meetings and appointed delegates to a state convention, and, in every instance, the delegates to that convention were appointed of equal numbers, Whigs and Democrats. The convention assembled in the month of October, 1849.

This, sir, was the second step in the progress of the southern movement. Up to this period neither party could claim the exclusive credit, and up to this time it was all credit—there was no debit. That convention put forth another address to the people of Mississippi, and from that address I propose just in this connection to read a very short extract. For this address, bear you in mind, both the Whig and the Democratic parties of Mississippi were responsible, so far as they could be made responsible by their delegates in convention. It bore the honored signatures of leading Democrats and leading Whigs. It was a document which bore the signature of a very distinguished member of the UNION party, now high in the confidence of the administration, and its representative as chief consul on the Island of Cuba—Judge Sharkey. After disclosing to the people what had been done and what was proposed for the future, Judge, now Consul, Sharkey and his associates said:—

"Besides and beyond a popular convention of the Southern States with the view and the hope of arresting the cause of aggression, and if not practicable, then to concentrate the South in will, understanding, and action, the convention of Mississippi suggested, as the possible ultimate resort, the call by the legislature of the assailed states, or still some more solemn conventions—such as should be regularly elected by the people of those states—to deliberate, speak, and act with all the sovereign power of the people. Should, in the result, such conventions be called and meet, they may lead to a like regularly-constituted convention of all the assailed states, *to provide in the last resort for their separate welfare by the formation of a compact and an union that will afford protection to their liberties and their rights.*"

Now, that is the language for which I say all parties in Mississippi were responsible. It is the emanation of a convention composed equally of Whigs and of Democrats, or as they are now called of State-Rights men and Union men. The very head and front of the Union party in Mississippi, was the president of the convention, which put forth that address—the very head and front of the Union party in Mississippi attached his name to that sentiment and published it to the people of Mississippi—"to provide in the last resort for their separate welfare." How could this be done else than by a *separation* from the Northern States? How could it be done else than by secession or revolution—by breaking up the government? True, it was to be done in the last resort; and pray, have we ever spoken of secession except as the last resort—the final alternative? But now I find this language brought into the House of Representatives by my honorable colleague [Mr. Wilcox], and held up here with an attempt to hold the party to which I belong responsible for it. History, sir, must be known to him, at least the history of our own state, and if he has read that history, he knows that the Honorable William L. Sharkey, the appointee of Millard Fillmore as consul to the city of Havana, was among those who put forth this address—put his signature to this language, and endorsed it to the people of Mississippi. To this point the southern movement progressed. This Mississippi convention advised the convention of the Southern States. Virginia responded to that call, so did Georgia and Alabama, and Louisiana, and Arkansas, and Texas. Ay, even Tennessee came in, slowly and reluctantly, it is true, but still she comes——

Mr. POLK. To save the republic.

Mr. BROWN. Yes, sir, Tennessee went into the Nashville Convention to save the republic, and so did Mississippi.

Mr. SCURRY. If the gentleman will permit me to interrupt him.

Mr. BROWN. Very briefly.

Mr. SCURRY. The gentleman who attended from Texas did so against the large majority of the district which he represented. A majority of that district voted directly and flatly against the convention.

Mr. BROWN. Well, I am not going to inquire how delegates came to be there. I speak of history as it is. Texas was represented in the convention, whether by her authority I do not know, and what is more, at this time I do not care. It is not material. The Nashville Convention, in obedience to this call, and in pursuance of these proceedings, assembled. This was another step in the progress of the southern movement. Up to this time, if there was any strenuous objection to it anywhere, I, at least, was not aware of it. Here and there an exception may have been found—here and there a newspaper editor might be found to oppose it; but the great mass of the southern politicians—as far as I



could judge of the southern people—Whigs and Democrats—were for it. They were for it without distinction as to party. The convention assembled. It elected Honorable William L. Sharkey, of my own state—the head and front of Mississippi UNIONISM—to preside over its deliberations. He did preside. That convention put forth an address to the people, followed by a series of resolutions, asserting certain propositions upon which the southern people ought to insist. Still, sir, there was no formidable objection either to the convention, or to what it said or did. The progress of the movement still seemed to be onward. Soon afterwards the compromise measures began to attract attention in the country and in Congress. A feeling of trepidation seemed to steal over senators and representatives. Here and there an old advocate of the Nashville Convention—one who had looked to it as the source from which a panacea was to come for all wounds and bruises and putrifying sores, gradually fell off. I might call names, if I did not wish to avoid involving myself in a discussion with too many gentlemen at the same time. With the falling off of these early and sturdy advocates, commenced the decline of the southern movement—and with the passage of the compromise, I mark the first distinct evidence of its decay.

In November, 1850, after the compromise measures had passed, a Union convention, the first ever held to my knowledge in the United States—certainly the first ever held in my own state—was assembled at the city of Jackson, the seat of government of Mississippi. It was not a Southern-Rights convention; it was not a State-Rights convention; it was not a Whig convention; it was not a Democratic convention; it was a UNION convention, so it was called, and so it assembled. It was in advance of any other political organization in the state of Mississippi, or any other state, growing, so far as I know, out of the compromise. It rose as if from the ashes of the southern movement in Mississippi. It was made up of the consistent few who opposed, and of the greater number who seceded from the southern movement. With the assemblage of this convention in Mississippi, I date the downfall of the southern movement in that state; a fall which was rapidly succeeded by its downfall elsewhere. Virginia determined to acquiesce in the measures of the compromise; Georgia acquiesced; Alabama and the other states in the South followed suit, or were silent. To the Union convention of Mississippi belongs the credit, if credit it be, of striking the first fatal blow at the southern movement. From this moment it *rapidly declined*. The movement I regard as dead. It died at the hands of its early friends—its fathers. It is now very dead; and if I were called upon to write its epitaph, I would inscribe upon the stone that marked its burial place, *Requiescat in pace*. I will not make merry over the tomb of an old friend. I loved this movement. I believed it was, in its day, full of patriotism, full of devotion to the best interests of the country, and eminently calculated to preserve the Union, because it was eminently calculated to preserve the rights of the states within the Union. But it has passed away. A witty friend, in speaking of its buoyant rise, its rapid progress, and its early decay, described it as being like Billy Pringle's pig:

“When it lived, it lived in clover,  
And when it died, it died all over.”

[Laughter.]

When those who had been chiefly instrumental in getting up this movement abandoned it, could we be made longer responsible for it? They brought it into being, and by their hands it fell; and now they turn upon us, denounce it as a monster, and charge its sole paternity on us. We assume our due share of the responsibility, and they shall take theirs.

The Southern movement was, I repeat, the joint work of both parties acting together. This is history. If there was any rivalry, it was as to which party was entitled to the most credit. There was in this movement a fusion of parties. But upon all the old issues each party maintained its separate organization. And when the Southern movement was abandoned, each was free to resume its original position.

The Whigs did not return to their position. They halted by the way-side, and, by the aid of a few Democrats, formed the Union party. It was a party not demanded by the exigencies of the hour; but called into existence to subserve the views of particular men. This brings me to consider the present organization of parties in my state.

My colleague [Mr. Wilcox] the other day, in what I considered rather bad taste—although I certainly shall not undertake to lecture him upon matters of taste—spoke of a bare minority—of almost a majority of the people of our state, as attempting to *SNEAK BACK* into the Democratic ranks. That was the language employed. In speaking of the State-Rights men of 1832, after their separation from General Jackson, he said:—

“They stood aloof from the party, in armed neutrality, in the only state where they had a majority; and in states where they were in the minority, generally acted with the Whig party in opposition to the Democrats. They did not, after their defeat, attempt to *sneak back* into the Democratic party under the style of *old-line Democrats*, as the secessionists of the present day are attempting to do.”

Now I shall undertake to demonstrate that the State-Rights party of Mississippi were never out of the ranks of the Democratic party, and that by no act of theirs have they ever put themselves beyond the pale of that party; and therefore there was no occasion for them to march back, even with banners flying, and much less for them to “sneak back,” in the language of my colleague. Who were they that put themselves first out of the pale of the Democratic party? It was my colleague and his associates. In November, 1850, they assembled together in what they certainly did not call a Democratic convention. They assembled in a Union convention, and passed what they were pleased to term Union resolutions. They formed a Union organization, independent of the Democratic party, and equally independent of the Whig party. They did more than that. They chose, as the especial organ of that party—the particular mouth-piece of that political organization, the leading Whig organ at the seat of government. I ask if it is not so? It is true they took down the name of the paper. It was called the “Southron.” That title no longer suited their purpose, and they called it the “Flag of the Union.” But they left the old Whig editor to conduct it. True it is that they associated with him a so-called Union Democrat. And it is equally true that the old-line Whig and the new-line Democrat yet conduct that journal. From this point, the unhappy controversy which has continued in Mississippi, took its progress. The Democratic party became divided. But there can be no difficulty in

deciding who kept up the old organization. The newspaper press of the state gives always a pretty clear indication as to how parties stand. If there is one single, solitary Whig paper in the state of Mississippi that has not kept the Union flag flying at its masthead from the opening of the contest down to this hour, I ask my colleague to say which one it is. If there was a Democratic paper in the state of one year's standing that did not take the State-Rights side, with but a single exception, the Columbus Democrat, and keep it, I do not know where it is to be found. Who seems from these facts to have been getting out of the Democratic party—my colleague, who is sustained by the Whig press, or I, who have been and am yet sustained by the Democratic press?

More than this. The Union party called a convention in April, 1851. It was to be, by the terms of the call, a Union convention—mark you, it was not a Democratic convention, it was not a Whig convention, but it was a Union convention. What did it do? Did it nominate Democrats for office? It made four nominations, and two of them were Democrats by name, and two of them were open and avowed Whigs. It did not assemble as a Democratic convention. It did not sit as a Democratic convention. It did not make Democratic nominations. It nominated two Whigs and two Democrats, and my colleague voted the ticket thus nominated. Who was it, let me ask, that, following after strange gods, thus put himself outside the Democratic party; and who is he that, in coming back, will have occasion to sneak into the ranks?

The State-Rights party, or the Democratic State-Rights party, as it is termed in our state, assembled in convention in June. What did they do? They made their nominations, and they selected their nominees from the old-line Democracy. General John A. Quitman was made our standard-bearer. I was surprised the other day to hear my colleague going back to 1824 and 1828, to find the evidence of Quitman's want of fidelity to true Democratic principles. Something has been said about a statute of limitation. Whether the late distinguished nominee of the Democracy of Mississippi requires a statute of limitation, I certainly do not know. If he voted for John Quincy Adams in 1824 and 1828, and has since seen the error of his way, where is the Democrat who will not forgive him? Where is the Mississippi Democrat who has not forgiven him? But we have his own word for saying, that he did not vote for John Quincy Adams in 1824. He did not vote for him in 1828. He was always a State-Rights man of the strictest sect; and upon the issuing of General Jackson's proclamation against South Carolina, he, like hundreds and thousands of others who had been always faithful to the standard of the old hero, abandoned him; and they returned to him in their own good time. But if it be so grave an offence in the Democrats of Mississippi to have nominated a gentleman who voted (allowing the charge of my friend to be true) for John Quincy Adams in 1824, and again in 1828, what shall my friend say of Governor Foote? He claims to be a better Democrat than anybody else; and yet he held the only office that he ever did hold at the hands of the people in Mississippi, until he was elected governor, from the Whigs of the county of Hinds, and that so late as 1838-'9. Yes; my friend forgot that, in 1838, Governor Foote run as a Whig, was elected as a Whig, and served as a Whig in our legislature. So, upon the score of consistency, I

think, allowing my friend's statements to be true, we stand quite as well as he does. And I submit to my colleague whether it is not a little too late for him, or for his friend, the governor of the—I was going to say Union party, but he is governor of the state by the constitution—to complain of Governor Quitman's want of Democracy. Did not both you and Governor Foote vote for Quitman for governor in 1849? Did not Governor Foote put forth, or aid in putting forth, a pamphlet, in this city, urging the claims of this same John A. Quitman for the Vice-Presidency? Yes, sir, so late as 1848 he recommended him as a man worthy of trust, to the whole Democracy of the Union. Yet my friend lays charges against his political orthodoxy, dated as far back as 1824 and 1828—twenty years beyond the time when he received the endorsement of Governor Foote and nearly one-third of the whole Democracy of the Union; twenty-one years beyond the time when he received the endorsement of Mississippi for governor, and my friend's vote for the same office. If the endorsement of the National Democracy in 1848—if the endorsement of the Mississippi Democracy in 1849—if the endorsement of Governor Foote, and of my colleague also, may be relied on, I think Quitman can pass muster. He is sound.

Our nominees were all Democrats. We run them as Democrats—as State-Rights Democrats—against the Union ticket, composed of two Whigs and two Democrats. We were beaten. And what has happened since the election? Who is it that has gone out of the Democratic party? The legislature assembled—the new governor was inaugurated. What was almost his first act? It was to appoint an adjutant-general. It was an important appointment—the most important in his gift. Did he appoint a Union Democrat? No, not he. Did he appoint a Secession Democrat, as my friend calls them? No, not at all; but he appointed a Whig. That was his first important appointment as governor, and he dismissed a Democrat to make it. What did his “faithful Union legislature” do? It did not send him back to the Senate, that is clear. I will tell you what it did. There was an old and venerable Democrat superintending the penitentiary. It was a mere ministerial office, filled by a man who had confessedly discharged his duties with ability and integrity, and to the entire satisfaction of everybody. He was turned out by the Union legislature, and a Whig put in his place. A gentleman who had discharged for a series of years the duties of clerk of the same establishment, with fidelity, and to the entire satisfaction of every one, was also dismissed, and a Whig put in his place. A Whig sergeant-at-arms was elected. Places were given to other Whigs over the heads of Democrats. The patronage of the state, so far as the governor and legislature could control it, has been given to the Whigs; and so far as the executive advertising has been concerned, it has, with scarcely an exception, been given to the Whig press. I ask if this looks like Democracy? Two vacancies existed in the United States Senate. How were they filled? With Democrats, did you say—old, long-tried, and consistent Democrats? Were they sent here to represent the *Union* men of Mississippi? No, sir. One Democrat and one Whig were returned. If these things show that my colleague, and his associates in Mississippi, have been faithful to the Democratic party, why, then, I must confess I have grown strangely wild in my opinions of political fidelity. What think our friends from other states? “Can things like

these o'ercome them like a summer cloud, and not excite their wonder?" Is it consistent with Democratic usage to organize under the style of the Union party? Is it compatible with party fidelity to nominate and elect bitter enemies of the party? Is it a part of the tactics of the Democratic party to dismiss Democrats and put Whigs in their places? Ought the patronage of a Democratic government to be given exclusively to the Whig press? And, finally, ought a Democratic legislature to elect a Whig United States senator? These are questions raised by my friend, and his party. I ask the National Democracy to answer them.

My colleague calls us constantly through his speech, the *secessionists* and *disunionists* of Mississippi. This is a kind of political slang used in a party canvass with effect, but it is entirely out of place here. A member of Congress, ought to use terms that apply to a given state of facts—that have some relation to justice. My friend says what he, perhaps, said so often in the heat of the canvass, that he almost got to think it was true—that we went into the contest with secession and disunion inscribed upon our banners. Why, no such thing is true. My friend must have seen that inscription through a distempered imagination—through some extraordinary perversion of his mental vision. There was no such inscription on our banner. The Democratic party of Mississippi asserted the abstract right of a state to secede from this Union. They entertain that opinion now; and at all proper times and upon all proper occasions, they will maintain it. We believe, in the language of the Kentucky resolutions, "that where there is no common arbiter, each party to a compact is to judge of the infractions of the compact, and of the mode and measure of redress."

The state, we say, "is to be the judge of infractions of the compact, and of the mode and measure of redress." If, in the language of the Kentucky resolutions, the state believed that the compact has been violated, she, and she alone, has the right to judge, so far as she herself is concerned, of that infraction, and the mode and measure of its redress. I desire to ask my colleague if he does not endorse the Kentucky resolutions, and whether the whole Union party of Mississippi does not endorse them? If he will say to us, by authority of his party, that they repudiate these resolutions, I will guaranty that they sink so low, as a political party, that, though you sounded for them with a hundred fathom lead line, a voice would still come booming up from this mighty deep, proclaiming, "no bottom here."

I desire to submit this proposition to my colleague. He says, that because we assert the right of secession, therefore we are secessionists. *Non constat*. He asserts the right of revolution. Let me ask my friend, Do you consider yourself as a revolutionist? If I am to be denounced as a secessionist because I assert the right to secede, may I not turn upon my assailant and say to him, You are not a revolutionist, because you assert the right of revolution?

But, sir, this new Union organization—this party which claims first to be the Whig party *par excellence*, and then to be the Democratic party *par excellence*—to what sort of sentiments does it hold? Ask my friend here [Mr. Wilcox], in the presence of our colleague of the Senate [Mr. Brooke], who has lately arrived in this city, "Gentlemen, what are your opinions on the subject of the currency?" My friend would doubt-

less say something about hard-money, and gold and silver; but our colleague in the Senate would tell us that he believes in paper money, and banks. Suppose the two gentlemen should be asked what they thought on the subject of protection? My friend here would commence lecturing you about free-trade; but his colleague in the Senate would begin to tell us how much protection we want. And it would be thus in regard to distribution, internal improvements by the federal government, the Sub-treasury, and upon all other party questions. If you ask them what they are for, they tell you they are for the Union. But as to what political measures they propose to carry out, they do not at all agree, even among themselves.

Why, sir, if I may be allowed, in this high council-place, to indulge in an anecdote, I think I can tell one illustrative of the position of this Union party, and especially the Union party of my own state. There was an old gentleman who kept what was called the "Union Hotel." A traveller rode up and inquired whether he could have breakfast. The landlord said, "What will you have?" "Well," said he, "I'll take broiled chicken and coffee." "I don't keep them." "Let me have beefsteak and boiled eggs, then." "I don't keep them." "Well," said the traveller, "never mind; give me something to eat." "I don't keep anything to eat." "Then," said the traveller, getting a little out of patience, "feed my horse; give him some oats." "I don't keep oats." "Then give him a little hay." "I don't keep hay." "Well, give him something to eat." "I don't keep anything for horses to eat." [Laughter.] "Then what the devil do you keep?" "I keep the Union Hotel." [Renewed laughter.] So with this Union party. They are for the Union, and they are for nothing else. They are for that to which nobody is opposed. They are constantly trying to save the Union, and are making a great outcry about it, when, in fact, nobody has sought or is seeking to destroy it. They keep the Union Hotel, but they don't keep anything else.

Now, sir, to come a step further in the progress of Mississippi politics. As soon as the election in our state resulted adversely to my friends and to myself, we, as a matter of course, abandoned the issue upon which it had been conducted. We gave up a contest in which we had been beaten. But we did not change our opinions as to the soundness of the *principle*. It was a contest for the maintenance of a particular state principle, or state policy. We were overthrown by a majority of the people of our own state, and consequently we gave up the issue. Immediately afterwards, by the usual authority and in the usual way, there was a notice inserted in the leading Democratic papers of the state, calling upon the Democratic party, without reference to new state issues, and without reference to past disputes, to assemble in convention for the purpose of appointing delegates to attend the Baltimore National Democratic Convention. This was in November, 1851. Almost immediately afterwards, the Union party called a Union convention, which assembled on the first Monday in January last. It was represented by about thirty-six delegates, from twelve or fourteen counties. On the 8th of the same month, the Democratic Convention proper, assembled, represented by some two hundred or more delegates, from fifty-five counties. Our convention was called as a Democratic convention. It assembled as a Democratic convention. It deliberated as a Democratic convention. It appointed

delegates to the Baltimore Convention as a Democratic convention. It appointed Democratic electors. It represented emphatically the Democracy of Mississippi. Having been beaten on the issues of state policy, I repeat, we gave them up. We so publicly announced; and when we met in convention on the 8th of January, it was as Democrats on the old issues.

How was it with the Union Convention? Was that a Democratic convention? Was there any such pretence? No, sir; it assembled as a Union convention—a Union meeting to appoint delegates to attend a Democratic National Convention. Why, what an idea! What right had such a meeting to appoint delegates to a Democratic National Convention? If the Union party, calling themselves Democrats, may appoint delegates to the National Democratic Convention, why may not the Free Democracy of Ohio, typified in the person of the gentleman across the way [Mr. Giddings], do the same thing? They claim to be Democrats, and have organized the Free Democracy; and why may not they send their representation to the Democratic convention? Suppose the Free-Soil Democrats get up an organization, why may not they send delegates too? and why may not every other faction and political organization have its representatives there? No, sir; if there is to be a Union party, let there be a Union Convention. If certain gentlemen have become so etherealized that the Democratic organization does not suit them, let them stay out of the Democratic Convention. When they put on the proper badge—when they take down the Union flag, and run up the old Democratic banner, I am for hailing them as brothers—for forgetting the past, and looking only to the future. They need not sneak back. We will open the door, and let them in. “To err, is human; to forgive, divine.”

Mr. CHASTAIN (interrupting). I wish to ask the gentleman from Mississippi if the platform of the Nashville Convention did not repudiate the idea of having anything to do with either of the national conventions—the Whig or the Democratic?

Mr. BROWN. For that convention, the Whig party and the Democratic party, as I said before, were alike responsible. The Union party, composed, as it is, of Whigs and Democrats, must take their part of the responsibility for it. Was not Judge Sharkey, a Whig and your President's appointee to Havana, responsible? Was he not president of the convention, and is he not a Union leader? Did not Governor Foote have a hand in it? Did not Mr. Clemens take his share of responsibility? Did not almost all the prominent, leading Union Democrats of the South have a part in that convention? I want to know if these gentlemen may slip out and leave us to hold the sack? The State-Rights Democrats of Mississippi, as such, never endorsed the recommendation to which the gentleman alludes; and, therefore, we no more than others are responsible for it. If the Union Whigs and Union Democrats will stand by the recommendation, they may fairly expect us to do so too; but it is a very pretty business for us to make a joint promise, and then allow them to break it, and require us to hold on to it. No, sir. “A contract broken on one side, is a contract broken on all sides.”

Mr. MOORE of Louisiana (interrupting). The gentleman from Mississippi mentioned the state of Louisiana in connection with the Nashville Convention. I wish merely to state this fact, that a law was introduced

into the legislature of Louisiana authorizing the people to send delegates to that convention, but it failed. I do not believe a single man went from the state of Louisiana to that convention who was authorized by the people to go there.

Mr. BROWN. I cannot stop for these interruptions, as I find that my time is fast running out. Now, what did the Democratic party of Mississippi mean when they assembled in convention and appointed delegates to the Baltimore National Convention? They meant, sir, to go into that convention in good faith, and to act in good faith. We do not believe the Democratic party is going to come up to our standard of State-Rights, but we know they will come nearer up to it than the Whig party; and we therefore intend to go into the Democratic Convention, with an honest purpose to support its nominees. We trust you to make us fair and just nominations; and if you do, we intend to support them. If I am asked who the State-Rights Democrats of Mississippi would sustain for the presidency, I will answer, they will sustain any good, honest, long-tried, and faithful member of the Democratic party, who has never practised a fraud upon them.

I can tell you this, that in going into that convention, the Democracy of Mississippi will not ask from it an endorsement of their peculiar notions—if, indeed, they be peculiar—on the subject of State-Rights.

Mr. CHASTAIN (interrupting). Let me ask the gentleman if he would vote for Mr. Cass?

Mr. BROWN. If I were to answer that question, I might be asked by other gentlemen whether I would vote for this man or that man. I do not choose to engage in any controversy about men.

Sir, I was saying that we shall not ask at the hands of the Baltimore Convention an endorsement of our peculiar views on the subject of State-Rights—if, indeed, these views be peculiar. We shall ask in the name of the State-Rights party no place upon the national ticket—neither at its head nor at its tail. And when we have aided you on to victory, as we expect to do, we shall ask no part of the spoils, for we are not of the spoil-loving school.

What we ask is this: that when we have planted a great principle, which we intend to nourish, and, as far as we have the power, protect, you shall not put the heel of the National Democracy upon it to crush it. We ask that you shall not insult us in your convention, either by offering us as the nominee a man who has denounced us as traitors to our country, or by passing any resolutions which shall thus denounce us in words or by implication. Leave us free from taunt and insult; give us a fair Democratic nomination, and we will march up to it like men, and we will be, where we have always been in our Democratic struggles, not in the rear, but in the advance column. We will bear you on to victory; and when victory has been achieved, you may take the spoils and divide them among yourselves. We want no office. Will the Union party give this pledge? Of course they will not, for they are committed against your nominees in advance, unless certain demands of theirs shall be complied with—and among them is the ostracism of the State-Rights men. They propose to read out the great body of the Southern Democrats, and then I suppose make up the deficiency with Whigs. When the National Democracy relies on Whig votes to elect its President, it had better “hang its harp upon the willow.”



The State-Rights Democrats will never be found *sneaking* into any party. We ask nothing of our national brethren. If we support the nominees, as we expect to do, it will be done, not for pay, but as a labor of love—love for old party associations; love of principles, which we hope are not yet quite extinct, and which, we are slow to believe, will be extinguished at Baltimore. If we fail to support the nominees, it will be because they are such as ought not to have been made.

We make no professions of love for the Union. Let our acts speak. We have stood by the Constitution and by the rights of the states, as defined by our fathers. If this be enmity to the Union, then have we been its enemies. We have not made constant proclamation of our devotion to the Union, because we have seen no attempt to destroy it, and have therefore seen no necessity for defending it. The danger is not that the states will secede from the Union, but rather that the Union will absorb the reserved rights of the states, and consolidate them as one state. Against this danger we have raised our warning voice. It has not been heeded; and if disaster befall us from this quarter, we at least are not to blame.

Laudation of the Union is a cheap commodity. It is found on the tongue of every demagogue in the country. I by no means say that all who laud the Union are demagogues; but I do say that there is not a demagogue in the Union who does not laud it. It is the bone and sinew, the soul and body of all their speeches. With them, empty shouts for the Union, the glorious Union, are a passport to favor; and beyond the point of carrying a popular election, they have no ideas of patriotism, and care not a fig for the ultimate triumph of our federative system.

Mr. Chairman, there are many other things to which I should have been very glad to make allusion, but I am admonished that my time is so nearly out, that I can have no opportunity to take up another point. I shall be happy, however, in the few moments that remain of my time, to answer any questions that gentlemen may desire to submit. I supposed, from the disposition manifested by gentlemen a few moments ago to interrogate me, that I should necessarily be compelled to answer some questions, or seem to shrink from the responsibility of doing so. I therefore hurried on to the conclusion of what I deemed it absolutely necessary to say, for the purpose of answering those questions. I am now ready.

After a moment's pause, Mr. B. continued: Gentlemen seem not disposed to press their inquiries, and my time being almost out, I resume my seat.

## MISSISSIPPI POLITICS.

SPEECH IN REPLY TO HIS COLLEAGUE, HON. JOHN D. FREEMAN, ON THE  
STATE OF PARTIES IN MISSISSIPPI. DELIVERED IN THE HOUSE  
OF REPRESENTATIVES, MARCH 30, 1862.

AVERSE as I am to the continuance of a controversy with my colleagues on the subject of Mississippi politics, I am not the less constrained to reply to a speech of my colleague, from the third district, which I find printed in the *Globe* of the 19th of this month. I am wholly at a loss to account for the ill temper which the speech exhibits. Surely there was nothing said by me to call forth such a reply. One of my colleagues [Mr. Wilcox], when the "HOMESTEAD BILL" was under debate, made a party speech, in which he represented, among other things, that my friends in Mississippi were attempting to "sneak back" into the Democratic party. It became my imperative duty to reply, and I did so. My colleague rejoined, and here I supposed the matter might very well have rested. But the gentleman [Mr. Freeman] returned from an excursion to New York, and without the least provocation from me, took up the cudgel, and proceeds to deliver himself of a speech full of acrimony; so full, indeed, that one as familiar as I am with the productions of his usually cool head, could hardly repress the conviction that a "torpid liver" must have influenced the calmer impulses of his mind.

If he entered the lists because he fancied that his friend had not successfully met my positions, I not only forgive him, but confess myself flattered by his consideration. "Thrice armed is he who hath his quarrel just;" and though my three colleagues should all assail me, armed, trebly armed as I am in the justice of my cause, I shall not despair of success against them all.

The gentleman tells us, in the opening paragraphs of his speech, that the *pious philanthropists* at the North have "*decoyed, caught, and harbored some TWENTY-FIVE or THIRTY THOUSAND of our SLAVES*, and that we never expect to see them again." Precious confession! If the compromise, fugitive slave bill and all, is going to be executed in good faith, as my colleague and his *Union* friends assured the people of Mississippi it would be, why should he thus abandon all hope of recovering these "*twenty-five or thirty thousand*" slaves? The truth is, that all my colleagues are very ready to lecture me for a want of faith, but neither of them has the least confidence in the efficacy of the compromise. The one [Mr. Freeman] has no expectation that we are to recover our "*twenty-five or thirty thousand slaves*," and the other [Mr. Wilcox], less desponding, and yet evidently in doubt, concludes his speech with an earnest invocation to the North to do us justice. If the compromise were executed in good faith, we should get back our slaves. But, like my colleague, I "never expect to see them again." If the North has given us justice in the compromise, why this invocation to their sense of justice now? The honest truth is, that in our secret hearts we all

know that justice has not been done us, and we have little hope that it will be in future. We have submitted to one wrong; will we submit to another? "We never expect to see our slaves again." All that we now do, is to invoke justice for the future.

My colleague, though he "*never expects to see the slaves*" that have been "*decoyed, caught, and harbored*" by the "*pious philanthropists*," is yet full of hope, in the conclusion of his speech, that we are to have *peace* in future. I do not care to be impertinent, but I should like to know on what he bases the hope that "*decoying, catching, and harboring*" slaves is going to cease, and why it is that, despairing as he does of recovering the slaves already taken from our possession, he is yet confident that we shall recover those that are "*decoyed, caught, and harbored*" hereafter? At his leisure, I shall be gratified to hear his answer. To my mind, we are as likely to recover those already "*decoyed*," as we are to recover those that are taken hereafter. *I never expect to see the one or the other.* The fugitive slave bill has not been executed; and if by its execution is meant an honest and faithful surrender of the slaves—such a surrender as is made of every other species of estrayed or stolen property—it never will be.

My colleague commenced his reply to me with an expression of his regret that he did not hear my speech. It certainly would have gratified me had he given me his audience; but as he did not, I should have been satisfied had he done me the honor to read a printed copy of my speech. This I am sure he never could have done. I know my colleague is a sensible man, and I hope he is just, and I am well satisfied that no sensible and just man who had read my speech could ever have published such a reply as that which I find printed by order of my colleague.

If my colleague's speech had been delivered in the House, I should have thrown myself upon his indulgence, and asked a portion of his allotted hour to correct his errors, as one after another he fell into them. But as it suited him better to print his speech without delivering it, I am left to no other alternative than that of asking the indulgence of the committee whilst I make such responses to his several allegations as in my judgment they merit.

It was an ungenerous fling from my colleague to criticise my remarks as he did in the opening paragraph of his speech. He thinks that upon such a question as that of appropriating money to continue the work on the capitol, I might have said something of the pressing necessities of the mechanics and laborers on these works—of the character of the work, &c. Now, the plain English of this is, that I made a speech out of order, and that an act so unusual called for his special animadversion. I am sorry the gentleman did not see at an earlier day the necessity of sticking to the subject under debate. Three days before I spoke, our colleague from the second district [Mr. Wilcox] made a speech, to which the gentleman listened with infinite delight. The subject was "*THE HOMESTEAD BILL*" of the gentleman from Tennessee [Mr. Johnson]. "Upon such a topic we may have supposed that our colleague would have said something of the pressing necessities" of the landless, the houseless, and the homeless. "But, much to our surprise, he wandered off two thousand miles," to bring up and discuss before us the state of parties in Mississippi. The gentleman [Mr. Freeman] heard this speech. He enjoyed it. "He rolled it under his tongue as a sweet morsel." It

was foreign to the subject under debate. It was out of order. It was in advance of any single remark from me on the subject of Mississippi politics. But it was from the political twin brother of my colleague, and therefore he had no word of rebuke to utter. But no sooner do I rise to "vindicate the truth of history" than my colleague rolls up his eyes in well-dissembled horror, and begins a pious lecture on the "pressing necessities of the mechanics and laborers whose work had been suspended." Why did not the gentleman thus rebuke our colleague from the second district, when first he lugged these foreign topics into the House of Representatives?

My colleague says, "the secret of the gentleman's [my] speech is to be found in the fact that the *Union Democrats* of Mississippi have called a state convention, and sent delegates to the Baltimore Convention." I am not aware of any secret purpose entertained by me in making that speech. It is upon its face my reply to a colleague, and no one can read it without seeing that it could only have been suggested by the speech to which it was a reply. Let me assure my colleague that what he calls "a *state* convention of the *Union Democrats* of Mississippi" has never given me a moment's uneasiness. I looked upon it more in sorrow than in anger. It was a poor abortion at best; and the only concern I ever felt in regard to it was, that it became the "slaughter-house" of a few pure-minded and upright Democrats.

The gentleman says I admitted "that the movement of my party was dead," and that "my party was dead." Now, sir, I made no such admissions; said nothing from which such an inference could have been drawn; and, if the gentleman shall ever take the trouble to read the speech to which he wrote a reply without having listened to its delivery, and without reading it after it was delivered, he will see how grossly he has misstated what it contains.

I said the "southern movement was dead;" and so it is; but I said explicitly that it was not the movement of my friends or of my party. It was, I said, and as I now repeat, the movement of all parties in the South—Whigs and Democrats, Union men and State-Rights men. My party is not dead nor dying. It lives, and moves, and has a being; and so long as there is true Democracy in the South, it will continue to grow and flourish. It is the party of progress. It contains all that is sound in the creed of the ancient fathers, and all that is pure and original in that of the "Young Democracy." Its steps are guided by the lights of past ages, and its course is onward and upward, to that destiny which awaits the votaries of freedom in every land. It is, I repeat, neither dead nor dying. Its glory was eclipsed in the late contest in our state, as the glory of the National Democracy was eclipsed in 1840, and again in 1848. But these things must pass away, even as the clouds pass over the face of a summer sun. The gentleman and his party cannot blot out the glory of the TRUE Democracy. Impotent attempt! As well might they strive to eclipse the true glory of the sun with the light of a penny candle, as thus to throw discredit upon the National Democracy, by their eternal cry of Union, Union. Theirs is a feeble light at best. It burns dimly in Georgia and Mississippi, and throws a sickly glimmer over a part of Alabama. Everywhere else it is lost in the sun-like blaze of a National Democracy—a Democracy which is as broad as the continent, and as athletic as Hercules. The demo-

cracy of my colleague and his Union allies is of a feeble nature. It is constantly going into spasms about the safety of the Union. Ours is of a different kind. It has no fears for the safety of the Union. The Union is strong, and can defend itself. If it should ever get into trouble, the National Democracy will be ready to give it a helping hand. I had rather rely upon one friend of the Union, who would stand by it in the hour of its peril, than a whole regiment of defenders who would go into hysterics every time some mad-cap cried "SECESSION!"

My colleague says, that after my return home in 1850, the compromise bills having passed, I made a "violent harangue" in which I said: "So help me God, I am for resistance; and my advice to you is that of Cromwell to his colleagues, 'Pray to God, and keep your powder dry.'" Here, again, my colleague blunders. I made no "*violent harangue*" after my return home. It is true I made a speech, but it was characterized by everything rather than violence. I had no reason, at that time, to suppose that the speech did not meet the approbation of my colleague. We were upon terms that would have justified him in communicating any disapprobation he may have felt; and his failure to do so left me under the impression that I had said nothing which shocked his confidence in my devotion to the Union and the Constitution.

It is true that I used the two expressions which my colleague attributes to me, but not in the connection in which he employs them. I said, after the compromise bills had passed, or after it became manifest that they would pass, "So help me God, I am for resistance." I used that expression here, on this floor. I may have employed it elsewhere. But is my colleague at all justified in concluding that I used the term *resistance* as synonymous with *secession*? Not at all, sir. When Jefferson, and Madison, and Randolph, and Nicholas, and Clay, *resisted* the alien and sedition laws, were they for secession? When Jackson *resisted* the bank charter, was he for secession? When the whole Democracy of the nation *resisted* the tariff of 1842, were they all *seceders*, traitors, and disunionists? I used the term as it had been used from time immemorial—as expressive of my strong disapprobation of the compromise bills, and of my determination to induce my constituents, if possible, to withhold from them the meed of their approbation, and to refuse, as far as practicable, to allow them to become precedents in the future legislation of the country. My constituents have *never sanctioned* the compromise. They have never said it met their approbation; and, in my judgment, they never will.

I used, in my speech at home, after my return from Congress, the Cromwellian expression which ever since has so much annoyed the peculiar guardians of the Union: "Pray to God, but keep your powder dry." And it was as if I had said, "Hope for the best, but be prepared for the worst." The true meaning of this expression will be understood when I state, that on that occasion, as now, I said appearances, in my judgment, are delusive. We have suffered much at the hands of the North, and we have not seen the end. We are destined to suffer much more. Some gentlemen say we have a final, and lasting, and eternal settlement of the slavery question. *I hope it may be so.* But I am incredulous; I would not cease to watch on such an assurance; I would hope for the best, but be prepared for the worst. "I would pray to God, but keep my powder dry."

The gentleman takes up the message and general policy of Governor Quitman, and attempts to hold the Democracy of Mississippi responsible for all he ever said and did. I will make this bargain with my colleague: If he will undertake to be responsible for all that Governor Foote has said and written, I will respond for the writings and sayings of Governor Quitman. Secession, disunion, revolution, southern rights, and similar terms, are as common along the path that General Foote made in the congressional record as mile-posts on a turnpike; and yet the gentleman passes over all these, and attacks Quitman's message. I leave others to decide whose "platter is clean on the outside," and whose is "filled with rottenness and dead men's bones." If my colleague's *platter* is clean without or within, it has, to my mind, a marvellous strange way of showing it.

The gentleman says that on the day the message of Governor Quitman appeared, "the *Union Democrats* then at the seat of government denounced it as treasonable to the nation, and they so denounce it now."

The day that Governor Quitman's message was delivered, there was assembled at the seat of government (Jackson) a convention. It was not a Democratic convention; it was not a *Union Democratic* convention; it was a convention in which the Democrats stood to the Whigs as about one to five. This convention denounced the governor's message, it is true. But I never heard before that the voice of denunciation was that of the *Union Democrats*. I heard it at the time as the voice of the *Union party*, and then, as now, I recognised it as the growl of Whiggery.

But how came there to be a convention at the seat of government? Was it called to deliberate on the governor's message? Not at all. This could not be; for the convention was composed of persons (chiefly Whigs) from all parts of the state, and it had actually assembled and was in session at the very moment when the governor's message was delivered. For what purpose did it assemble? Not, certainly, to consider a message yet not made public, and the contents of which were as little known to the members of that body before they assembled as to the people of *China*. I judge of the purpose of its assemblage by what it did. It formed, created, and brought into being the *Union party*. Mark you, it was not the *Union Democratic* party. There was no "Democratic" about it. It was the *Union party*; and it was formed outside of, above, and beyond the Democratic party. It was an attempt to form a third party. It failed; and then the ringleaders threw an anchor to the windward. Then it was that, finding the National Whigs and National Democrats were laughing at them, my colleague and his Union friends hung out the "Democratic" banner. At first it was all Union; and when they found the Union would not save them, they called themselves *Union Democrats*.

One of my colleagues [Mr. Nabers] the other day asked, in the course of his speech, "What it was that constituted party? Was it numbers or principles?" He said it was numbers, and as there were *numbers* in Mississippi who avowed themselves secessionists, he concluded there was a secession party there. My colleague's premises are badly laid, and his conclusions do not follow his premises. Numbers do not constitute party. It takes principles and numbers both to constitute party; and it takes something else—it takes the *organization* of

numbers on *principle* to constitute party. Whenever the gentleman shows that the secession *numbers* in Mississippi were organized on the *principle* of seceding from the Union, he will have shown that there was a secession party in Mississippi. And then I will show that neither I nor my friends belonged to or constituted a part of these *numbers*.

There are two, and only two, political organizations in our state—the “Union party” and the “Democratic State-Rights organization.” I never heard of the *Union* Democratic party until after the elections were over, and a convention was about to be called to send delegates to Baltimore. The candidates in the state elections were announced as Union candidates and Democratic State-Rights candidates. The tickets were printed “Union tickets” and “Democratic State-Rights tickets.”

It is strange how a sensible man hates to confess he has done a silly thing. I know my colleague [Mr. Freeman] feels bad. He feels that he has been playing truant to the party of which he professes to be a member. The best way to get out of it is to confess his folly, quit all this tom-foolery about the Union, and settle down again into a quiet, orderly citizen, and betake himself to the study of true Democracy. I commend to him the consolation held out in the two lines:—

“While the lamp holds out to burn  
The vilest sinner may return.”

The gentleman expresses some strange ideas about the anxiety of my friends and myself to get into the Baltimore Convention. I must confess this part of his speech is all jargon to me. “We have on the wedding garment,”—“our lamps are trimmed,” and I know of no reason for any anxiety on our part. We are Democrats, and have always been. We appointed our delegates in the usual way, and upon my word, I can see no reason to doubt that we shall take our seats like other members of the family. So far as my colleague’s remarks apply to me personally, I can only say that I am not an appointed delegate; and in this he and I are alike. He has been appointed by a *Union* convention, it is true. But I take it, a *Union* convention has no more right to appoint delegates to a Democratic convention, than the Pope of Rome would have to appoint the pastor of a Methodist church.

One of the strangest features in the gentleman’s speech is, that the whole Democratic party of Mississippi are secessionists, because certain county meetings and certain newspapers promulgated secession doctrines and sentiments. Is my colleague serious in this? If he is, I will show in ten seconds, by the same rule of evidence, that he is a Whig. He proves that I am a secessionist, because the Mississippian, Free-Trader, Sentinel, and other Democratic papers, used expressions supposed to indicate, more or less, a disposition to secede. Suppose I take up the Vicksburg Whig, Natchez Courier, Holly Springs Gazette, and other Whig papers now in the service of the gentleman, and show that they are for the Whig cause and Whig principles throughout—does not the gentleman, by his own rule, thereby become a Whig? He does. And yet, sir, I do not pretend to say that he is a Whig. Parties are to be judged by what they say and do in their organic capacity, and not by the acts and speeches of individual members of the party. Before a party can be justly held responsible for the acts and speeches of any one or more of its members, it must be shown that such members had

authority to speak for the party. This can never be done when the party in convention has spoken for itself. In such cases individual members become responsible for their own expressions, and the party, as a whole, *and each member of it*, is responsible for what the organic body, the convention, has said. By this rule I am ready to see my party tried, and by it I mean to try the gentleman and his party.

He introduces a series of resolutions, which he says were passed by the convention which nominated Governor Quitman. Numbers 5 and 6, as I find them in his speech, were resolutions originally passed by a joint convention of both parties—Whigs and Democrats—in our state. They were copied by our convention simply because they had received the sanction of all parties, and were, therefore, not liable to objection, as we supposed, from any quarter. The same resolutions had been reaffirmed by the Union Convention, and now stand as a part of their platform. *Such at least is my recollection.*

The resolution number 12, as printed by my colleague, declares the admission of California into the Union to be the "Wilmot proviso in another form." This resolution, as my colleague knows very well, embodies the substance of a letter written by the Mississippi delegation in the last Congress (including Governor Foote) to Governor Quitman. I hope Governor Foote, and my colleague as his supporter, will each take his share of the responsibility. *I am willing to take mine.*

Next come a series of resolutions passed by the Nashville Convention in June, 1850, and incorporated into our platform in June, 1851. These resolutions were passed at Nashville, when Judge Sharkey was presiding—when the convention was full of what is now called Union men—and they received the deliberate sanction of them all. They were approved at the time by Governor Foote and by my colleague, and if they afterwards denounced them, the most they can say of us who sustained them is, that we stuck to what we said a little longer than they did.

But my colleague thus speaks of this very Nashville Convention and its acts, in the speech to which I am now replying. He says: "For the *first session* of the Nashville Convention, all parties were and are responsible. I take my own share of it." Why, sir, these resolutions were passed by the *first session* of this convention. And again: To this convention the gentleman attributes the success of the compromise, and the defeat of the Wilmot proviso. He takes his share of the responsibility, and yet he quarrels with us because we incorporate a part of its wonderful works into our platform. If these works had done the mighty things he attributes to them, he might at least have spared them the bitter denunciation he has heaped upon them.

This disposes of our resolutions so far as I find them copied in my colleague's speech, with but a single exception, and that is an immaterial one. Here it is:—

16. "*Resolved*, That it is a source of heartfelt congratulation that the true friends of the Constitution and of the rights and honor of the South, *of whatever party name, are now united in a common cause, and can act together with cordiality and sincerity.*"

And here is my colleague's commentary on it:—

"What a beautiful specimen of 'old line Democracy,' 'Black spirits and white, blue spirits and gray.'"



When before was it doubted that the "old line Democracy" "were the true friends of the Constitution?" When before were the true friends of the South sneered at as "black spirits and white, blue spirits and gray?" When before was it considered a matter of reproach that the friends of the Constitution and of the South acted together with cordiality? I leave my colleague to answer.

The gentleman is at great pains to leave the impression on the minds of those who shall read his speech, that the Democratic party of Mississippi approved of and made a part of its creed the address, or resolutions, or some other of the proceedings of the *second session* of the Nashville Convention. Now, sir, I say emphatically, that he is mistaken. We never did, as a party, in any manner, shape, or form, by resolution or otherwise, endorse, approve, or sanction the proceedings of the *second session* of that body. He admits his own and his party's responsibility for the *first session*, but attacks the *second session* of the Nashville Convention. The second was but a continuation of the first. The gentleman's party never endorsed the acts of this *second session*, nor did mine. For the proceeding of the JUNE Nashville Convention, my friends and myself made ourselves responsible. But if my colleague shall show that we made ourselves responsible for the acts of the NOVEMBER session of that body, he will show what I have not yet seen.

My colleague argues that the Union movement grew out of the doctrines contained in the Quitman message, and the acts and resolutions of the second session of the Nashville Convention; so, at least, I understand him. The Union movement in Mississippi could not have grown out of that message, nor could it in any way have been influenced by the second session of the convention at Nashville. The Union party was organized at a mass Union meeting in Jackson, on the 18th November, 1850. On *that day* the governor's message was delivered to the legislature, and on *that day* the convention assembled at Nashville, Tennessee—four hundred miles off. The Union mass meeting was not, therefore, assembled to deliberate upon the one or the other of these things. Of both, the members of that body were profoundly ignorant at the time of their assemblage. The Union party was organized by this mass meeting. It held a convention in April, 1851, and under the style of "Union men," put its candidates in the field. The "Democratic State-Rights party" met in June, 1851, and made its nominations, calling them "Democratic State-Rights men."

Our position in the canvass was, that a state had the abstract right to secede from the Union, and to do it peaceably. For taking this position, we have been denounced as secessionists and disunionists, although we declared, in the same sentence in which we asserted the right, that it was "the last resort, the final alternative, and that we opposed its present exercise."

What was the position of my colleague and his party? They designated six distinct acts, the doing of any one of which would justify *resistance*, and among these was the repeal of the fugitive slave law, or its material modification. My colleague, I believe, endorsed, and perhaps yet endorses, the Georgia platform. It declares that "Georgia will resist, even to a disruption of every tie that binds her to the Union, the repeal of the fugitive slave bill;" and further, that, in her judgment,

"the perpetuity of our much-loved Union depends upon the faithful execution of that law."

When I say I am for resistance, my colleague says I mean secession, or disunion. And pray, sir, when he says that he is for resistance, what does he mean? He will not secede, but he will *resist* if the fugitive slave law is repealed. Yes, sir, he will *resist, even to a disruption of every tie that binds him to the Union*; but he will not secede. He will perpetrate no such "abominable heresy" as *peaceable secession*. He will resist, he will sever the ties that bind him to the Union; but he will not do it peaceably—that is a heresy too abominable to be thought of. Well, sir, there is no disputing about tastes; but, I must confess, if it shall ever become necessary to "sever the ties," as I trust it never may, I shall prefer to see it done peaceably.

If language means anything, the gentleman's party in Mississippi was about as far committed to secession, by their resolutions, as was my party. I shall hold myself responsible for the resolutions of my party in general convention, and I ask the gentleman to assume no higher degree of responsibility himself.

My colleague complains that a Democratic senate in Mississippi elected a Whig (Judge Guion) to preside over it. This was not the first time that such an event had happened, and therefore it was not even singular. In the palmiest days of Jacksonism, Colonel Bingham, an old-fashioned John Quincy Adams Whig, was elected both Speaker of the House and President of the Senate; and I heard nothing said against it. It caused no political convulsion in the state. Men and parties moved on just as they did before. It was a tribute to his high character and exalted worth as a gentleman and a native Mississippian. A Democratic Senate did the same thing for Guion, than whom Mississippi boasts no more noble, generous, and talented son. If Democratic senators were willing to waive their claims to the president's chair, and the Democratic party made no objection to Guion's election, pray, sir, who else had a right to complain? But, says the gentleman, "When the Whig president was elected, the secession governor (Quitman) resigned, and placed that Whig president of the senate in the office of governor." I can appreciate my colleague's "affliction of soul" at the accession of a Whig to the gubernatorial chair; but I hope he may find consolation in the fact, that the Whigs have done *him* some service in their day and generation.

My colleague cannot, I am sure, mean to convey the idea that Quitman resigned with a view of conferring the office of governor on Judge Guion. My colleague is very familiar with the facts attending Governor Quitman's resignation. He knows how he was charged with participating in the *first* Lopez expedition to *Cuba*. He knows that whilst others, who confessed to have been at *Cardenas*, were permitted to visit *this city*, and to travel everywhere, without molestation, Quitman was hunted like a common felon, and finally forced to resign the office of governor. He knows, too, that when he presented himself in New Orleans, and demanded a trial, the prosecution was *instantly* abandoned. All this my colleague knows. There is abasement enough in it for our state, God knows, without making the resignation of the governor the pretext for further charges.

The gentleman speaks of a "standing army," projected by Governor

Quitman, and recommended by him to the legislature. And this, he says, was a part of the "secession scheme." I have heard of this "standing army" before, and I will exhibit the *monster* in all its proportions. Some years back, when the gentleman was attorney-general, and I was governor of Mississippi, the subject of reorganizing the militia was discussed. It may have escaped the recollection of my colleague, but it has not mine, that we concurred in the opinion, that the militia system of the state was a nuisance. Accordingly, in preparing the executive message, I brought the subject to the attention of the legislature; but nothing was done. My successor, Governor Matthews, took up the subject, and pressed it on the attention of the legislature; but with no better success. When Governor Quitman came into power, he took it up where Governor Matthews and myself had left it; and, like ourselves, he failed in getting the favorable action of the legislature.

I always regarded this "standing army" as one of the humbugs of the campaign. I had the fullest confidence in the wisdom and patriotism of Governor Quitman, and I confess, therefore, never to have examined critically his scheme for reorganizing the militia. But if I am not mistaken, it will be seen by reference to the record, that he was following out substantially the positions taken by me, and which I had no reason to suppose met the disapprobation of my present colleague and the late attorney-general of Mississippi.

If there was not much more in this "standing army" than I have supposed, it is mine; I claim it by right of *invention*. It was my squadron; I first put it in the field. But as the relations of Mississippi with the Federal government were at the time of a most pacific character, not extending beyond a dispute about a very small fraction of the two per cent. fund, and as the Compromise had not been heard of, I hope to escape the imputation of harboring hostile designs against our venerable relative, "Uncle Sam."

The whole extent, body and breeches, of the "standing army," as I understand it, is this: It was an attempt to substitute an organized corps of volunteers for the ridiculous and troublesome militia trainings that are now required by law. In what precise terms it was presented by Governor Quitman, I say again, I do not know. But this is the monster as I have seen him in all his huge proportions.

The gentleman next charges that Colonel Tarpley, a Democrat, was *ruled off*, and Governor Guion, a Whig, *recommended* for chancellor of Mississippi. It so happens that there was no ruling off in the case. Both gentlemen agreed to submit their pretensions to an informal meeting of mutual friends. Those friends advised Colonel Tarpley to withdraw, and, like a true man and a Democrat, he did it. One would naturally conclude that my colleague, from his manner of speaking about this transaction, would have voted for Colonel Tarpley, the Democrat, if he had continued in the canvass. But I tell you he would have done no such thing. He had already made up his mind to vote for Charles Scott, another Whig. His party had him in the field, and they all voted for him, and, what is more, with a little help from our side they elected him. When my colleague votes for a Whig himself, he takes no account of it. It is all very natural that he should do so. But if I, or my friends, do the same thing, then it is all wrong. My colleague, in all this, seems to

admit that we are the old liners, "the salt of the party," and it grieves him to see us going astray. I thank him for the admonition. True men should be always circumspect. More latitude may be allowed those to whom no one looks for examples of fidelity to the party.

In extenuation of this *atrocious charge*, so vehemently laid against my party and myself, of having voted for a *Whig chancellor*, I may mention a few facts. For twenty years, the people of Mississippi have elected their own judges, and in no single instance within my knowledge has a judge ever been chosen on party grounds until it was done by the *Union party*. It stands to the everlasting credit of our people that they did, with Roman firmness, withstand for twenty years all the appeals of the politicians to mix up politics with the administration of justice. Judge Sharkey was again and again elected from a Democratic district, though he was always a Whig. Judge Posey, though a Democrat, has presided with dignity and ability for a long time in a *Whig* district. Judge Miller, a Whig, was elected and re-elected in the strongest Democratic district in the state. It is not to the credit of the Union men that they departed from this time-honored usage. And I think the example they have set us will be "more honored in the breach than in the observance."

The gentleman intimates, that after the September election of 1851 had resulted adversely to my party I changed my policy, and by a timely retreat saved myself from defeat. No one knows better than my colleague that such an insinuation is grossly unjust. After the result of the September election was known, and when the Union party was fuller of exultation than it ever was before or since, and in the midst of their rejoicings, I published an address to the people of my district. A few short extracts from this address will show how much I quailed before the frowns of a party flushed with victory. This publication was made to vindicate myself against the slanders of my enemies. I said:—

*"There are my speeches and there my votes; I stand by and defend them. You say for these my country will repudiate me. I demand a trial of the issue."* This was my language in the first speech made by me after my return from Washington. I repeat it now. I said then, as I say now, that the charge laid against me that I was, or ever had been, for *disunion or secession*, was and is FALSE and SLANDEROUS."

If I stood by my votes and speeches, and defended them to the last, in what is the evidence of my faltering to be found? I submit the concluding paragraphs of this address:—

"In the approaching election, I asked the judgment of my constituents on my past course. I claim no exemption from the frailties common to all mankind. That I have erred is possible, but that the interests of my constituents have suffered from my neglect, or that I have intentionally done any act or said anything to dishonor them in the eyes of the world, or to bring discredit upon our common country, is not true. In all that I have said or done, my aim has been for the honor, the happiness, and the true glory of my state.

"I opposed the Compromise with all the power I possessed. I opposed the admission of California, the division of Texas, the abolition of the slave trade in the District of Columbia, and I voted against the Utah bill. I need scarcely say that I voted for the Fugitive Slave bill, and aided, as far as I could, in its passage. I opposed the Compromise.

"I thought, with Mr. Clay, that 'it gave almost everything to the North, and to the South nothing but her honor.'

"I thought, with Mr. Webster, that the 'South got what the North lost—and that was nothing at all.'

"I thought, with Mr. Brooks, that the 'North carried everything before her.'

"I thought with Mr. Clemens, that 'there was no equity to redeem the outrage.'

"I thought, with Mr. Downs, that 'it was no compromise at all.'

"I thought, with Mr. Freeman, 'that the North got the oyster and we got the shell.'

"I thought, at the last, what General Foote thought at the first, that 'it contained none of the features of a genuine Compromise.'"

"And finally, and last, I voted against it, and spoke against it, BECAUSE it unsettled the balance of power between the two sections of the Union, inflicted an injury upon the South, and struck a blow at that political equality of the states and of the people, on which the Union is founded, and without a maintenance of which the Union cannot be preserved.

"I spoke against it, and voted against it, in all its forms. I was against it as an *omnibus*, and I was against it in its details. I fought it through from Alpha to Omega, and I would do so again. I denounced it before the people, and down to the last hour I continued to oppose it. The people have decided that the state shall acquiesce, and with me that decision is final. I struggled for what I thought was the true interest and honor of my constituents, and if for this they think me worthy of condemnation, I am ready for the sacrifice. For opposing the Compromise, I have no apologies or excuses to offer; I did that which my conscience told me was right, and the only regret I feel is that my opposition was not more availing."

This is what the gentleman calls *meek and lowly submission*. These were my positions on the day of my election; they were the positions of my entire party; they are our positions now; we submitted to nothing but the voice of our state. Then, as now, when Mississippi speaks we are ready to obey; the state had a right to decide for herself what, if anything, was necessary in vindication of her honor. She made that decision, and of it I thus spoke in the address from which I have been reading.

"I opposed and denounced the Compromise, but I did not thereby make myself a disunionist. *I thought in the beginning that it inflicted a positive injury upon the South, and I think so now. This opinion is well settled, and is not likely to undergo any material change.* I gave my advice freely, but never obtrusively, as to the course which I thought the state ought to pursue. That advice has not been taken. Mississippi has decided that submission to or acquiescence in the compromise measures is her true policy. As a citizen, I bow to the judgment of my state. I WISH HER JUDGMENT HAD BEEN OTHERWISE—but from her decision I ask no appeal."

After this publication was made, my colleague and General Foote both visited my district with special reference to my defeat. Others traversed it. The newspapers became more reckless than ever. Slander upon slander was "piled up like Pelion upon Ossa, until the very heavens cried for quarters." But all to no effect. And now we have the sickly excuse rendered, that I turned "submissionist." The charge is entitled to my pity and contempt, and I give them both without stint and without grudging.

The gentleman speaks of my willingness to beg my way into the Baltimore Convention. In this he is about as accurate as in his other statements. So far from begging my way into the Baltimore Convention, I have expressly declined going in at all. I wrote to my party friends at home requesting not to be named as a delegate. I did so because our party had, years ago, from proper motives, determined to exclude members of Congress from presidential conventions, and I wanted no

\* General Foote, in speaking of Mr. Clay's *compromise resolutions*, said: "I shall always be unable to see in his resolutions, any of the features of a genuine compromise." The allusion is to this expression.

departure from the rule in my case. If the gentleman means that I am begging for the admission of my friends, he is again mistaken. I know the strength of the true Democracy of Mississippi. We polled within a thousand of a majority at the last election, and we can poll many more at another trial. And I suppose the nominees at Baltimore and their friends will be quite as anxious to receive our votes as we will be to give them. This, however, was one of the gentleman's ill-tempered flings, to which a reply is hardly necessary. No man of sound judgment, not carried away by passion, can suppose that there will be any more question about the admission of the delegates from Mississippi than from any other state. I have not canvassed the question, because I never supposed that it admitted of a doubt in any man's mind, except that of the gentleman himself, and his friend Governor Foote.

The gentleman thinks it singular that I should expect to enter the Baltimore Convention with opinions not altogether in harmony with the sentiments of Democrats elsewhere. Let us see how much there is in all this. Let us see in what my views "differ from the great body of the National Democracy." And let us inquire whether these differences of opinion have not been tolerated on former occasions. There are three classes of Democrats: *Federal* Democrats, *Union* Democrats, and *State-Rights* Democrats. And the question on which we differ is this: "What redress has a state, suffering intolerable oppression from the Federal government?" or, "What remedy has a state for a violation of the compact between herself and the Federal government?" It will be observed that the question is one which each state must, of necessity, decide for itself. And every individual will decide it for himself according to his federal or republican proclivities. A *Federal* Democrat would say that a state should submit, under any and all circumstances. A *Union* Democrat would advise *revolution*, and he would, I suppose, lead a rebel army; but where to, and against whom, God only knows. A *State-Rights* Democrat would advocate *peaceable* secession. But we all agree that each state must be left free to shape its own policy. No one would think of consulting the Federal government, or the National Executive, as to what a state should do in such a case. National parties and national conventions have nothing to do with state policy, and have no right to instruct a state as to "the mode and measure of redress" in cases of "infractions of the compact." It follows, therefore, that the Baltimore Convention can have nothing to do with the policy of Mississippi; and if it shall assume to tell her what are her rights as a member of the Confederacy, it will transcend its authority, and its act, in this regard, will be null and void. The Baltimore Convention will commit no such folly. It is a question of state policy, with which national parties, national Executives, and national conventions, have no concern. Now let us see whether, in days gone by, the Democracy of Mississippi has been required to submit its *local* or state policy to the supervision of a national convention.

Three times the Democracy of Mississippi has shaped the policy of that state without consulting the Democracy of other states. Twenty years ago, the Democracy of Mississippi determined to elect judges by the people. It was a bold innovation. New York, Pennsylvania, and other states, laughed at our temerity. But New York, Pennsylvania, and other states, have followed our example.

Fifteen years ago, Mississippi Democracy set its face against banks and banking. Under the lead of McNutt every bank in the state was swept away. We took the lead. The Democracy of other states hesitated, and finally refused to follow.

Twelve years ago, the Democracy of our state declared against paying certain BONDS, issued in the name of the state, and bearing its seal. The Democracy of other states was horror-stricken; but we had our own way.

In no one of these cases had we the support or countenance of the National Democracy; and in all of them there were bolters from the party, who denounced it, as my colleague now denounces us. When we resolved to elect judges by the people, they called us anarchists and levellers. When we made war upon the banks, we were Jacobins and Red Republicans. When we were opposing the bonds, they denounced us as repudiators and public plunderers. The true Democracy of Mississippi survived the gibes and taunts of its enemies in those days; and it will survive the denunciations of the gentleman and his associates now. We settled all these cases without losing our identity with the National Democracy, and without consulting its wishes. And we never failed to meet them on national questions, in national conventions; and we shall not fail now. We shall not dictate what others are to do in vindication of their rights, nor will we tolerate dictation from others as to how we shall defend our own.

The gentleman, strangely enough, misunderstands what I said respecting General Foote's being at one time a Whig. He speaks of Colonel Fall, Colonel Miller, and other Democrats, having represented the *Whig county* of Hinds. In this he misses the point. These gentlemen were all elected as *Democrats*. It was a high tribute to their worth, to be elected from a strong Whig county; yet it caused great labor and extraordinary diligence on the part of their friends. General Foote had an easier time of it. *He run as a Whig. He was elected as a Whig. He served as a Whig.* As a member from Hinds county he voted, as the journals show, for a Whig United States senator. I hope I am now more clearly understood.

I should never have introduced the name of General Foote into this debate, if it had not become necessary in vindication of Governor Quitman. I commend to my colleague a homely adage, "that those who live in glass houses should not throw stones."

My colleague "thanks God" that his party had in its ranks "many gallant and patriotic Whigs." It may be all a matter of taste, but it seems to me it would have been more appropriate if he had returned his thanks to another quarter. I can hardly think it was a celestial influence that made the "gallant and patriotic Whigs of Mississippi" the followers of my colleague. But I discern in this part of the gentleman's speech two things worthy of commendation—*gratitude and common sense*. It is right that he should, in this or in some other way, manifest his gratitude to those who elected him. And it indicates good common sense to retain, as far as he can, the good opinion of his Whig friends. It is very certain that they will be needed in another election, if my colleague should be a candidate.

It may be that my colleague has captured a large number of Whigs, and means to march them into the Democratic camp. I have heard

such an intimation. If it turns out to be true, I hope he will post his *captives* in the rear, and not in the front of our line. And I would particularly caution him against giving them commissions and high rank, until he is certain they will be faithful to our flag. It is not safe to make commanders of those too recently taken from the ranks of the enemy. They may betray us in the hour of trial; or, from the force of habit, turn their arms against us. Besides, the old veterans in our ranks may object to following these *captive* commanders. Senator Brooke, for example, is an excellent Whig, and, for aught I know, he is a very good *Union Democrat*; but I know many an "old liner" who would not like to follow his lead in a presidential campaign.

My colleague is sensitive when allusion is made to an existing connection between the Whigs and *Union Democrats*. He has reason to be. The success of the Union party in Mississippi has given the Whigs more offices and more patronage than they have enjoyed for many years. If the gentleman means well towards the Democratic party, he cannot but regret that, through the instrumentality of his party friends, the most influential and important places in the state have been given to the Whigs. It is due to the Whigs for me to say, they have selected men of high character, and such as will be likely to make their present official positions felt in future elections. I honor them for their sagacity.

My colleague introduces a silly story about my settling in the Democratic county of Copiah, and *being soon* after sent to the legislature, and about my meeting a former *Whig* friend, who inquired how it was that the *Democrats* of Copiah sent a *Whig* to the legislature; and some other twaddle of the same sort. The story, if it had any purpose, was intended to leave the impression that I had at one time been a Whig. I am sorry that my position in Mississippi has been so humble that it has failed to attract the attention of the gentleman. He is entirely ignorant of my personal history, else he never could have retailed second-hand, and much less have coined, such a story. Instead of my settling in Copiah, and *being soon after* sent to the legislature, I went there with my father when I was eight years old, and have resided there ever since, except when absent in the public service. At the early age of twenty-one, I was sent to the legislature as a Democrat, and at each succeeding election, from then until now, I have been a candidate. I have invariably run as a Democrat, and have never suffered defeat. There is not an old Democrat in my congressional district, and scarcely one in the state, that could not contradict the implied declaration of the gentleman, that I had been a Whig. If the story was meant for wit, it was flat; if intended for effect, it was simply ridiculous. My colleague need not concern himself about my position, nor his own. I have been in the party all the time. He has the right to return, and, like a truant boy who had been a day from school, take his place at the foot of the class. I hope he will do it without grumbling.

The gentleman speaks of the "so-called Democratic *State-Rights* Convention," to send delegates to the Baltimore Convention. As usual, he mistakes the facts. There was no call of a "Democratic *State-Rights* Convention" in Mississippi to send delegates to the Baltimore Convention. The call was for a "DEMOCRATIC CONVENTION." It was made as such calls have usually been made, through the central organ of the party—the Mississippian. The gentleman errs again in saying, "it



was simply an editorial article." It was a call made in the usual way and through the usual channel, and upon consultation with the oldest, longest tried, and most substantial members of the party residing at and near the seat of government. The call embraced the *whole* party, *without* reference to past differences; and it was responded to by the party generally in Mississippi. Soon after the appearance of this call, several members of the "Compromise Convention," then at Jackson, issued a call for a "*Union Democratic Convention*;" thus marking, in distinct terms, their resolution not to unite with the great body of the party. It is worthy of remark in this connection, that the gentlemen calling this convention used the term "*Union Democratic Convention*." And it was the first time within my recollection that this term ever was used in Mississippi to designate an organized party. I had heard of "*Union Whigs*" and "*Union Democrats*," but it applied to individuals *only*. When the party, *the organization*, was spoken of, it was called the "*Union party*." That is my recollection.

I repeat, sir, the DEMOCRATIC convention in our state which appointed delegates to the Baltimore Convention, was called as a *Democratic convention*, and not as a "*so-called Democratic State-Rights convention*." But why should my colleague have such a horror of "*State-Rights*?" Is he not a State-Rights man? He may think that an oppressed state has no right but the right of submission, or revolution, and that if she judges for herself of "*infractions of the compact*," and of the "*mode and measure of redress*," the *federal government may reduce her and hold her as a conquered province*. This may be his notion of *state rights*. But I recollect that in 1841 (and I appeal to the public newspapers in Mississippi for the correctness of my recollection) the gentleman ran on the "*Democratic State-Rights ticket*" for attorney-general in our state. He had no horror of *state rights* then. In that year the term "*Democratic*" meant the right of the people to rule, and "*State Rights*" meant the right of the state to reject the payment of an unjust demand for money. Our opponents said, I know, that Democratic State Rights meant *repudiation*. My colleague won his first laurels in this celebrated campaign. In 1851, ten years after, he hoisted the "*Democratic State-Rights banner*" again. *Democratic* meant, as in 1841, the right of the people to rule, and *state rights* meant the right of a state, in the language of the Kentucky resolutions, "*to judge of infractions of the federal compact, and of the mode and measure of redress*." But the gentleman refused to fight under this banner, and he now denounces it as emblematic of treason, civil war, bloodshed, strife, and all the horrors known to man. I hope he will not get out of temper if we tell him that some of us think differently, and that we mean to enjoy our opinions.

The gentleman says the *Union Democratic Convention* of Mississippi appointed "seven delegates to the Baltimore Convention." That "the Union men of the South hold the presidential election in the palms of their hands." They *demand* thus and so, and if the convention does not comply with these demands, "*it had better never assemble*." *Wake snakes and come to judgment*—the times are big with the fate of nations. "The Union party of the South holds the presidency in its hands," even as the Almighty holds the universe. It stamps its foot, and the earth trembles. It speaks, and the sun stands still, as at the

bidding of Joshua. Seriously, I hope "the *seven* men in buckram" from Mississippi do not contemplate upsetting the universe, even if the Baltimore Convention should refuse some of their demands.

I have treated these domestic squabbles at greater length than their importance may seem to justify. I have treated them fairly, I think, and I hope in good temper. I set out with a determination not to be provoked by the ungenerous assaults of my colleague, and I have kept that resolve steadily in view. I am now done.

The controversy between my colleagues and myself has not been of my seeking. Our constituents did not send us here to fight again the campaign battles of Mississippi. And if I had been left alone to pursue the inclinations of my own mind, I never should have introduced the subject of Mississippi politics on this floor. The subject is foreign to the business of legislation on which we have been sent, and ought never to have been introduced here. But when my colleagues combined, as I thought, to make up a record prejudicial to my party-friends, prejudicial "to the truth of history," and calculated to fix on the mind of the country and of after ages, a wrong impression as to the principles, objects, ends, and aims of my friends, I should have been false to those friends, false to the truth of history, false to the reader of these debates in after times, if I had not interposed.

They have made their showing—I have made mine; and I submit the issue to the impartial arbitrament of the country and of posterity, without one shadow of doubt that justice will be awarded to us all. I ask nothing more, and will be content with nothing less.

This discussion is not suited to my taste. It obstructs the legitimate business of legislation, and encumbers the Congressional record with matter that has no business there. Its present effect must be, if it has any effect, to weaken the Democracy and give strength to the Whigs. For all these reasons, and for many others, I am most anxious to get clear of it. If the future depends on my action, there will be no recurrence to the subject, here or elsewhere.

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## PUBLIC PRINTING.

SPEECH IN THE HOUSE OF REPRESENTATIVES, APRIL 13 AND 14, 1852, ON  
THE SUBJECT OF THE PUBLIC PRINTING, AND AGAINST THE ACTION  
OF THE JOINT COMMITTEE IN TAKING IT FROM THE CON-  
TRACTOR AND DIVIDING IT BETWEEN THE "UNION"  
AND THE "REPUBLIC" NEWSPAPERS.

MR. BROWN said: I do not intend to detain the House by anything like an elaborate speech upon the subject of the public printing. In the few remarks which I propose to submit, I shall endeavor to confine myself as nearly as possible to the subjects directly before us; nor should I have asked the indulgence of the House to say a word but for the agency which I have taken heretofore in this matter. When I heard that the Committee on Public Printing had done more than, by the explanation of the honorable chairman, I am now induced to think

they intended to do, I thought they had exceeded the authority given them by law, and that they had done that which this House ought not to sanction by its silence, much less by its express assent. With the explanation which the honorable chairman has given, I am satisfied the committee have intended to confine themselves to the letter of the law; but I am just as well satisfied that their action will lead to an abuse of the law. The Committee on Public Printing have a right, according to one construction of the statute of 1846, to take so much of the public printing from the present employee as he fails or refuses to execute. Under this authority we now learn from the chairman, that they propose to take from the public printer—what? The work which he has refused or failed to execute, and this alone? No, sir; for in the progress of his remarks the honorable chairman tells you that they have in their possession now a considerable quantity of work, which has never yet been submitted to the public printer. What brought the minds of the committee to the conclusion, that the printer would either fail or refuse to execute the work, when it had never been in his hands? Was it not straining a conclusion to determine that he had failed to execute, and would not execute, work which they had never intrusted to his care, and never asked him to execute? The honorable chairman of the committee says that the public printer has failed to execute some of the work heretofore intrusted to his care. But does the conclusion necessarily follow, that he will continue to fail; or that, having failed in one kind of printing, he would fail in all others?

Was it ever expected that the public printer could execute the printing of this House instantly upon its delivery to him? Has there been any extraordinary delay in the delivery of this work? According to my recollection, the public printing is about as forward, about as near to completion, as it usually is at this season of the year. We have the first part of the President's message, bound and laid upon our tables, one copy for each member; and what matters it whether the extra copies shall be printed this month, the next month, or three months hence? When was the last part of the President's message and accompanying documents printed during the long session of the last Congress? According to my recollection, we were getting along towards the dog-days before it was laid upon our tables. Was the then venerable and highly-respected public printer [Mr. Ritchie] hauled over the coals for a failure to perform his duty? Was Mr. Ritchie—against whom I have no word of complaint to utter here—held up to the country as a defaulter in the discharge of his duties? Ah! some gentleman answers, in a low tone, Yes. It is well the tone is low. No gentleman ought to answer yes, in a loud voice. The House knows what was the action taken upon that subject two years ago. At the close of the session of 1850, there was found to be, in one House of Congress, a large majority not only indisposed to call Mr. Ritchie to an account for any failure to comply with his contract, but actually disposed and determined to give him some sixty or seventy thousand dollars of the public money as extra compensation. Mr. Ritchie was paid every dollar that he claimed under his contract, and his friends were anxious to give him a great deal more. I never understood that he did the work any better, or any more rapidly than the contract called for; and yet there was a large party in this House ready to vote him sixty thousand dollars, or more, over and above

what the contract called for; and it was only, according to my recollection, by parliamentary manoeuvring that the thing was prevented. You had two or three committees of conference upon the subject, and the subject was pressed upon our attention as no other subject was ever pressed upon us. And let me remind certain gentlemen, who are enforcing a very rigid observance of the law against Mr. Hamilton, that the journals show them to have been more than liberal towards Mr. Ritchie. Now, sir, I desire to know why it is, in this land of laws, in this land of equality, and before this Democratic House of Representatives, this kind of distinction is made between one employee and another? I know nothing of Mr. Boyd Hamilton; I have never seen him. If I were to meet him to-day, I should not know him from any other man in Christendom. I care not one single solitary farthing about him, but I do care for justice. I will not willingly make myself a party to a transaction so unjust as this. I will not say to one man, who wields a powerful party press, We will pay you the full amount of the bond, wink at your short-comings, and pay you sixty thousand dollars extra; and then to another, who has no press, no power, no influence, We will crush you, because you have not lived up to the very letter of the law.

Mr. GORMAN. I want the gentleman distinctly to avow whether he charges that as a motive operating upon the committee?

Mr. BROWN. Not at all.

Mr. GORMAN. Your words do.

Mr. BROWN. I disavow any personal application; but this I will say: If the House of Representatives shall perpetrate such an act of gross injustice, it will merit, and will assuredly receive, the reprobation of every just man in the nation. We hear continually that the contract system has proved a failure. I do not think so. The contract system has had no fair trial. There has been, what seemed to me, a determination from the beginning to bring this system into disrepute—never to give it fair play. Powerful parties, holding the most influential positions, have engaged in this work. The system has operated against their interest, and they have labored to break it down. Its triumph is not complete, but it has not failed. Let us see how the system has worked so far. Your first contractors were Wendell and Van Benthuyzen. Did they execute their contract? I understand they did. I am forced to that conclusion because there has been no suit entered upon their bond for a failure to execute their contract. Thus far the system worked well—at least it did not fail. You received the work and paid for it; and if it was not well done, it was because you did not require it to be well done. During the last Congress, the then venerable editor of the Union (Mr. Ritchie) had the contract. Did he execute it? I understand he did. It is my understanding that he executed it to the satisfaction of the Committee on Printing, and the satisfaction of Congress. I so understand, because no suit has been instituted upon his bond for a failure to execute the contract. You again received the work and paid for it, and we shall presently see that certain gentlemen proposed to do a great deal more. Surely there could have been no failure, when you not only received the work and paid for it, but wanted to give large extra compensation. Then Mr. A. Boyd Hamilton has the contract for this session. The only specifications, according to my present recollection, which the honorable chairman makes against him is, that a portion

of the paper is some twelve pounds in the ream lighter than the contract requires. This I find Mr. Hamilton accounts for in the printed paper lying upon our tables. He says, that for a brief season during the past winter, on account of the closing of navigation, he was unable to get a better article of paper. The cold weather having suspended steamboat and railroad operations, he could not procure transportation.

Mr. STANTON, of Kentucky. I wish to make a statement, and it is this: I understand from the chairman of the Senate committee, or rather the late chairman of the Senate committee, that he has rejected nearly all the work sent to the Senate by the printer, and rejected it not solely for the reason that the paper was of an inferior article, but because the whole committee concurred in the idea that a great fraud had been practised upon the government if this paper should be received as the quality of paper which he has now furnished, it being one-fifth less in value, than what he was required to furnish.

But there is another defect in the paper, to which the chairman of the House committee, and of the Senate committee, I understand, objected; and it is this: that the sheets of paper upon which the printing is done, are too small; that they have too little margin; that when the pages are folded together, and the edges clipped or cut, it leaves too little margin, and that in the books in which plates are to be placed, the plates are frequently disfigured and destroyed in consequence of the smallness of the sheets.

Nor is this all. The printing which has been sent to us, is so imperfect in consequence of defects in the manner in which the presswork is done, and defects in the quality of the ink that is used, that there are not half a dozen sheets in any one book that we have examined, that are perfect. They are full from the top line to the bottom of the page, with what printers call technically "monks" and "friars," that is, here a white place, and here a black blotch. So that the work, in every view in which it can be regarded, is inferior to what was agreed for under the contract.

Mr. FLORENCE. Did the gentleman submit any of this work to the House? I understood the chairman of the Committee on Printing [Mr. Gorman] to say that there had been no documents except the President's message and accompanying documents, given to the public printer. His complaint was, that there had been no work done; but now the gentleman from Kentucky, a member of the Committee on Printing, rises in his place, and says that these have been condemned. Where are they?

Mr. POLK. I will ask the gentleman from Pennsylvania, if there are not thirty or forty executive documents that have been furnished to the printer during the last three months, and that have not been printed yet?

Mr. FLORENCE. I do not know anything at all about that, for I am not a member of the Committee on Printing. I attend to the business of the committee to which I belong, and cannot answer the gentleman's question.

Mr. POLK. Then I say to the gentleman from Pennsylvania that he ought not to talk about things he knows nothing about.

Mr. FLORENCE. I rose for the purpose of being informed; and if the gentleman had had his ears open, he would have heard my question, and would not have made the remark he did.

Mr. POLK. I am sorry I did not hear the gentleman; but it is my misfortune, if my ears are not as long as his. [Laughter.]

Mr. GORMAN. The gentleman from Pennsylvania misunderstood me, if he understood me as saying that no document but the President's message had gone into the hands of the printer. A great many documents have gone into his hands, but we have never seen anything of them since; when they get there, it is the last of them. A part of the President's message has, however, come to us, and it is to that that the gentleman from Kentucky alludes. If you look over the pages, you will find the "monks" and "friars," or, as I should call them, blotches of white and then blotches of black. They are really so insufferably bad that we could not receive them. I hope the gentleman from Pennsylvania is satisfied. I will produce a copy, and hand it to him.

Mr. BROWN (resuming). I was proceeding to inquire, when I was interrupted, whether it was true that the contract system had been fairly tried, and had proved a failure? I had shown that there was no evidence of its failure up to the commencement of this session of Congress, and I had stated that I believed there had been combinations to break it down. If it has failed, or shall hereafter fail, in the hands of Mr. Hamilton, is that conclusive that the system is wrong, and ought to be abandoned? That it *must* fail in his hands, under the policy that the committee propose to pursue towards him, is to my mind the most evident proposition on earth. If the committee suspends a job when it is half completed, takes other jobs from him entirely, and makes large deductions from time to time on the work which he has executed, who does not see that the man's credit must be broken down? If he was worth a quarter of a million of dollars, he could not execute the contract under such a policy as this.

But I do not mean to dwell upon this branch of the subject. I have said that, in my judgment, the system has not proved a failure. If it has failed at all at any time, or in any man's hands, it is because you have not given it a fair trial.

Mr. FREEMAN (interrupting). I did not understand the chairman of the committee to say that the contract had been abrogated, but only that they should employ others to carry out such parts of the contract as the contractor has failed to carry out. I do not understand that this is an attack upon the contract system, but only upon the manner in which this party has acted under his contract. Is not that the fact?

Mr. GORMAN. It is.

Mr. BROWN. If the committee take the printing from this man and hand it over to others, or if they refuse to deliver it over to him, what is it but an abandonment of the contract? Is not that a breaking up of the contract? Does not every man see that the result of this action on the part of the committee must be that the whole of the House printing will go to Donelson & Armstrong, and the whole of the Senate printing to Gideon & Co.? Mr. Boyd Hamilton will be left at the end of three weeks from to-day with not a penny's worth of work on hand. It is useless to say what the committee mean to do, or what is meant by this proceeding. The question is, what does their action inevitably lead to? If the work is taken from Hamilton by the committee, and their action is sanctioned by the House, there is an end of his contract; and with it

we all see that the whole contract system will end. It cannot be otherwise.

The committee has notified us that they have ceased to send the work to Hamilton, and have made arrangements with other parties to do it. Is it not ridiculous, then, to say that they have not abrogated the contract? They have, to all intents and purposes, abrogated one contract and made another. It is stultifying ourselves to pretend that it is otherwise.

My reason for introducing a resolution in reference to this subject was this—and I had no other purpose to subserve—I wanted to arrest what I thought a dangerous proceeding. I knew the committee were acting without having made a report to the House. I did not pause to inquire whether they had authority to do all that they proposed. I looked only to the effect which their action was certain to produce. Mr. Hamilton says he has made an outlay of \$50,000 in preparing himself to execute the printing of Congress. It is proposed summarily to take the contract from him—and by whom and in what manner, pray? Not by Congress—not by a committee of Congress, but by three members of the House and one member of the Senate; for, bear you in mind, this is not the act of a full committee. And this fragment of a committee are doing this without consulting Congress, and without reporting its proceedings. Now, let Congress sanction this act of the committee, and think you, sir, that this man will not come here at the next Congress, and ask indemnity for his losses on this outlay? No man will question that. And what do you suppose he will prove? If he is half as smart in making proof as others have been, he will prove that he was executing the work as well as it had ever been done; that he was delivering it as fast as it had ever been delivered; that his contract was rudely and summarily snatched from him, his business broken up, his credit destroyed, and himself ruined. And instead of your getting the penalty of the bonds, he will present a claim for some \$100,000 or more against you. Then, if a committee is appointed, as there will be, to investigate the subject, what evidence will there be on the record to show that you were justified in this proceeding? Take the contract from Mr. Hamilton, under these circumstances, if you will; but I ask you to leave upon the record the evidence which shall justify your action to those who are to come after you, and who will be charged with an investigation of Hamilton's claims. Do not go out of this contract and leave no trace behind to mark your exit. Before you sanction the acts of this committee, demand a report, a full report, one that will justify you before another Congress in dismissing Hamilton from his contract—for rest assured he will present his claim from year to year, and send it down to his children after him, from generation to generation. It will be presented time and again, until, finally, Congress will be brought to pass it. It is this result against which I now raise my warning voice.

If there is anything to justify this step on the part of Congress, let the committee report it. Let the House take the responsibility. Let us know where we stand. Let those who are to come after us have something with which to meet Mr. Hamilton, when he comes here by himself, or through his attorney or successors, to make a demand for damages on account of the breaking up of his contract.

We are told day after day in the newspapers and elsewhere, that the

contract system has failed, and that Congress ought to abandon it. I am no friend of the system. I am not its friend or its apologist. But it has not failed. Its success has been wonderful, considering the amount of opposition it has encountered. Does it not strike us all as being rather remarkable, that a member can take up one of these printed documents on his desk, direct it to some one in some remote corner of California or Oregon, put his frank upon it, call a page and send it to the post-office of the House, and that it should then be taken up and carried from one point to another, and that too by contract, until finally it reaches its far off destination, and yet that this document thus borne from one part of the continent to another by contract, cannot be printed here, under the eye of Congress, by contract? Your army and navy can be supplied by contract; your troops on the distant frontier of Texas, California, and Oregon, can be furnished with supplies by contract; and yet you cannot print a book by contract. If these manuscripts belonged to a private individual, could he not get them printed by contract?—and would he not do it? Why is it, then, that we cannot do the same thing? I do not profess to know, but I will tell you what I think may be the cause. I do not say why it is we have failed, but I will tell you what I think has interfered with our success. There are party editors in the city of Washington—Whigs as well as Democrats—and there may be such a thing as this going on:

“If you'll tickle me, I'll tickle you.”

If a member will vote large supplies to a party editor, and thus tickle him—and it applies not more to one party than the other—why, then, the editor speaks well of the member to his constituents, and thus tickles him in return; but before an excuse can be given for voting these supplies, the contract system must be broken up. Besides, it may be possible that party men, after all, care more for the success of party editors than for the success of a system like this. And they may strive to bring the system into discredit and to destroy it in public favor, in order that party editors may come up and be elected public printers, or have contracts given to them, out of which they may realize large sums of money. I say these things *may* be. I do not say they are so. But these are reflections which force themselves on my mind. And when I can find no good reason why the contract system is failing, or is likely to fail—no reason why it is cried down—my mind dwells here; and I inquire of myself, whether it is not possible, that at the bottom of all the difficulty in executing this contract system, there do not lie some hidden and secret causes like these? If these be the causes of failure, let them be removed. Let us fling defiance in the teeth of those who would use the national treasury to purchase favor. Let members stand on their merits, and editors, like other men, work for what they get, and the contract system will triumph.

I do not say the contract system is the best; I only say it has not had a fair trial, and we have no reason to conclude that it has failed. If I had my own way, or if my suggestions are worth anything to the House, I would say, that above all other modes, I should prefer to have the public printer elected, and that it should be required of him, by law, that he should have no connection with any party press, Whig or Democratic, during his service; but that he should be what his vocation indi-



cated him to be—the public printer, and nothing else. If I had my own way, I should prefer to have the work executed by a public printer, who should be well paid. But of all the schemes that I have ever seen or heard of, this last one of the Committee on Printing, is to me the most objectionable—objectionable in many points of view. I do not like these combinations between Whigs and Democrats. I do not say there has been a combination or coalition *for bad purposes*, because I will not charge my honorable friend from Indiana [Mr. Gorman] with entering into combinations; but it will strike the mind of this country as a coalition; and, however well intended, its effects upon the Democratic party must be most disastrous. Talk about the Massachusetts coalition! Why, sir, the honorable chairman of the committee ought to have retained the gentleman from Massachusetts [Mr. Rantoul], to defend this business. He is a capital defender of coalitions, as he has given us good reason to know. [Laughter.]

This whole thing looks to me, and I fear it will strike the country, as very much like a combination or coalition between the Whigs and Democrats, or rather between the organs of the two parties, to control the government printing, keep the game in their own hands, and pocket the profits. I do not say that it is so, but it occurs to me that it looks that way, and that the country will so regard it.

Mr. GORMAN. I want to put a friendly question to the gentleman from Mississippi. I ask that gentleman whether the present coalition suits him?

Mr. BROWN. It does not.

Mr. GORMAN. I understand it does not. Would the Southern Press suit him?

Mr. BROWN. It would not.

Mr. GORMAN. I am inclined to come to the same conclusion in relation to my friend from Mississippi that he does in relation to myself. He suspects me of forming a coalition with the organs of the Whig and Democratic parties. I suspect him of doing precisely the same thing with the Southern Press. He suspects me, therefore, of exactly what I suspect him; so, if he kills my dog, I will kill his cat in the same way. [Laughter.]

Mr. BROWN. Let me say to my friend from Indiana, that he was never more mistaken. I have at no time sought, directly nor indirectly, to give any part of the public printing to the Southern Press. And, what is more, if it were left to me to direct the whole subject, I would not give one dollar of it to any party editor.

Mr. VENABLE. Wouldn't you give it to the National Era? [Laughter.]

Mr. BROWN. About as soon as to some others.

Mr. POLK. I ask the gentleman if he would not vote to give it to the Southern Press?

Mr. BROWN. No, sir. I have already stated, and I believe it to be true, that it is wrong in principle to give the public patronage to party editors at all. It destroys that independence and boldness which should belong alike to editors and representatives; it begets a sort of paralyzing sympathy between the recipient of a favor and the giver of it, which stands palpably in the way of a fair, upright, equitable, and honest administration of political justice.

**Mr. RANTOUL.** The suggestion which the gentleman from Mississippi [Mr. Brown] has thrown out, that I might be employed to defend this coalition, places me in a rather unpleasant situation; and, therefore, I beg leave to say, in advance, that I shall decline entirely to undertake any such task upon any conditions whatever. A coalition which is founded in principle, I can defend; but one which looks entirely to the division of the spoils, seems to me to be entirely indefensible. [Renewed laughter.]

**Mr. BROWN.** Well, I have only said that if a coalition should be completed, better counsel could not be found to defend it.

**Mr. GORMAN.** I congratulate the gentleman upon his new coalition.

**Mr. BROWN.** If my friend, the chairman of the Committee on Printing, will look over the vote of yesterday upon this subject, he will find some reason to congratulate himself upon another coalition. My recollection is, that he was found in very strange company on that occasion. If he will but turn to his friend over the way from New York [Mr. Haven], he will find in him a coadjutor with whom he struck hands in making this bargain.

**Mr. GORMAN.** I was congratulating the gentleman upon his coalition with the gentleman from Massachusetts [Mr. Rantoul].

**Mr. BROWN.** Upon the great issues which unite us as Democrats, we work together. And on these issues, I believe there is not a more trustworthy member of the party on this floor than the honorable gentleman from Massachusetts [Mr. Rantoul]. Those are the issues upon which the gentleman from Massachusetts and myself unite. Upon other issues, there is no bond of sympathy between us. The bond which unites us is political only; and the points of affinity are those which unite the gentleman from Indiana and myself, and indeed all Democrats. But my friend from Indiana [Mr. Gorman], and the gentleman from New York [Mr. Haven], seem to be united, and to have formed a coalition to obtain the spoils. [Laughter.]

**Mr. Speaker,** although I listened with the most profound attention, as I always do, to the remarks of my friend from Indiana [Mr. Gorman], I am at a loss to know why it became necessary to employ two party organs to aid in the public printing? I cannot understand why somebody else could not have done it just as well. There were other printing establishments here. There was the Towers's establishment. There was Mr. Rives's establishment; and there were others. But I understand the committee voted down all these establishments; they even voted down Donelson & Armstrong, as my friend [Mr. Gorman] says. And in order to secure to them a part of the work the right hand of fellowship was extended by him to his Whig co-laborers, they agreeing to divide it between the two great party organs, the Union and the Republic. I ask my friend [Mr. Gorman] if he did not vote against Rives, and against Towers, and against others.

**Mr. GORMAN.** I did.

**Mr. BROWN.** Exactly; and other members of the committee voted against Donelson & Armstrong, and in this way no conclusion was arrived at, until at last the two Whigs on the committee obtained their own terms, and got half the job for the Republic. It seems to me that if my friend from Indiana [Mr. Gorman], and my friend from Kentucky [Mr. Stanton], who was a member of that committee, had gone with the

other members of the committee for Mr. Rives, there would have been no difficulty.

Mr. ORR. Will my friend from Mississippi yield for a motion to adjourn?

Mr. BROWN. I will yield for that purpose.

Mr. ORR. I move, then, that the House do now adjourn.

The motion was put and agreed to; and

The House adjourned till twelve o'clock to-morrow.

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WEDNESDAY, April 14th, 1852.

Mr. BROWN continued: Before I enter upon the subject which was under consideration at the time of adjournment yesterday, I desire to correct an impression which I ascertain to have made a lodgement upon the minds of some gentlemen, whose opinion I prize very highly. And that is, that I have been actuated in my course by some feeling of personal hostility to the parties engaged by the committee to execute the public printing. I desire to say, once for all, that I distinctly disavow any such feeling. My personal relations with all the gentlemen (or with all of them that I know), are of a friendly character, and I know of no reason why they should not so continue. I owe them no thanks for past favors, and no grudge for past injuries. Occupying such a position, I can deal out to each one, and to all of them, equal and exact justice.

It seems to me, that in the action of the committee upon this subject of printing, there has been no *bona fide* effort to employ any one to execute the work, except Donelson & Armstrong. With the majority of the committee on the part of the House of Representatives, this appears clearly to have been the case. It seems that no other establishment was thought of, in connection with this printing, or was treated as worthy to receive it, except the Union establishment. With the majority, it was Donelson & Armstrong at the beginning—it was Donelson & Armstrong through its whole progress—it was Donelson & Armstrong at the conclusion.

Mr. STANTON of Kentucky (interrupting). Will the gentleman from Mississippi allow me to say a word?

Mr. BROWN. If I am at all mistaken, I want to be corrected—

Mr. STANTON. The remark the gentleman has just made does not apply to me. I attempted, at an early part of this struggle, to get this work divided out to Donelson & Armstrong and John T. Towers, and offered a resolution to that effect. I did so for this reason: because there was a necessity, at the time, of doing something. I thought those gentlemen were prepared to do the work, and I proposed to the committee to give to them such work as the public printer could not, or would not, do.

Mr. BROWN. Still I find, from the explanation of my friend from Kentucky [Mr. Stanton], that he insisted upon having Donelson & Armstrong in the contract somewhere. Now, sir, while these gentlemen [Messrs. Stanton and Gorman] were indulging their predilections for their friends, it seems they never thought of indulging other gentlemen to the same extent. They, it seems, had their likes for Donelson & Armstrong, and their dislikes for other printers and editors, and it was

all right that they should indulge them. But if other people indulge their likes and dislikes, then these gentlemen think it is all wrong. They think it very odd that other gentlemen should refuse to give up their opposition to Donelson & Armstrong; but they seem at no time to have been willing to yield their position in favor of these gentlemen. These facts being true, I say there does not seem to have been a *bona fide* single purpose of procuring the public work to be done in the speediest manner, and by those who would do it the cheapest and best. But there seems to have been but one purpose, running throughout the whole proceedings, from the beginning to the end, and that was to favor the printing establishment of Donelson & Armstrong. That I object to. I do not object to those particular individuals. What I object to is this: that the committee did not go to work in good faith to obtain the printing upon the best terms, but that they made the public interest secondary to the private interest of the Union establishment. Their position appears to have been, that unless Donelson & Armstrong could be included in the contract, they would make no contract. This, in my judgment, was wrong. Why not contract with other parties, if they would do the work as speedily and as cheaply? Why did the committee, from the beginning to the end, insist, without special reference to the speedy completion of the work, that this particular establishment should be included in whatever contract was made? It was the duty of the committee to have given the contractor every reasonable indulgence, and if he failed or refused to do the work, to have reported that failure to Congress; and if they put the work in other hands they ought to have employed the man who would do it the quickest, cheapest, and best.

The honorable gentleman, the chairman of that committee [Mr. Gorman], in the course of a colloquy yesterday, endeavored to impress upon the minds of this House, and so far as his printed speech could do it, upon the minds of the country, that there was something like an understanding between gentlemen entertaining extreme views; or, in other words, between what is called the Southern ultras and Northern Free-Soilers. An intimation was more than once made in the progress of the debate that there was something like a coalition between these extremes, and that by agreement they were acting in concert upon this question. No such thing is true of me. I repudiate any such insinuation, come from what quarter it may. I act here solely and alone, upon my own responsibility, never thinking, never inquiring, and never caring whether any other man North or South is or is not acting with me.

The gentleman from Indiana [Mr. Gorman] intimates that he will expose these understandings. For me, he is quite at liberty to begin. But before he puts my friends or myself on trial, I would advise him to try his hand on his associate, the gentleman from Kentucky [Mr. Stanton]. He is a capital subject to practise on. I shall expect to hear him say, "Richard Stanton, slaveholder and pro-slavery Democratic representative from the slaveholding state of Kentucky, stand up and answer to this House, by what warrant you were found in an unholy coalition with Truman Smith, Free-Soiler and Abolition Whig Senator from Connecticut, voting to divide the public printing between the Union and the Republic?" It would be an interesting trial, and I should watch its progress with great interest. Let the gentleman settle accounts like this between his colleagues on the committee before he charges

coalition upon others. It seems there is no account taken of coalition-ists like theirs. But if persons occupying such extreme positions as the gentleman from Massachusetts and myself are found opposing a bargain made by others holding quite as extreme positions as we do, we hear a great outcry about coalition! coalition!! If the bargain was made by a coalition, it may be opposed in the same way. If there was nothing wrong in the gentleman from Kentucky [Mr. Stanton] and Truman Smith acting together in making the bargain, there can be nothing wrong in the gentleman from Massachusetts [Mr. Rantoul] and myself acting together in opposing it. If I am found acting with gentlemen entertaining extreme views *against* the contract, it will be found that it was made by gentlemen holding opinions just as extreme.

MR. STANTON of Kentucky (interrupting). If the gentleman from Mississippi will allow me, I will tell him the result. We succeeded in bringing over a Connecticut Whig Senator and Abolitionist to the support of a compromise press.

MR. BROWN. Yes, sir; and when he came over he brought with him a Whig paper which has heaped more abuse upon the Democratic majority of this House than all the presses from Maine to Louisiana. Its columns teem from day to day with abuse of members of this House whose Democracy has never been questioned—Northern men and Southern men. When you talk about your Free-Soil ally from the North going for a compromise press, let me remind you, that he carried you over to the Whig press, and that one, the most vindictive of them all. The country will inquire how this was brought about; how, with an overwhelming Democratic majority in this House, and an equally effective Democratic majority in the Senate, you have not been able to choose a Democratic printer? Why it was that the Republic was fastened upon us? Why has this coalition been formed? These are the questions that will be asked. And the answer will be, that Donelson & Armstrong might be provided for. That is the whole secret of the matter—that is the nest in which the coalition was hatched.

MR. POLK (interrupting). Will the gentleman from Mississippi allow me to propound a question to him?

MR. BROWN. Simply a question.

MR. POLK. Will you vote to elect the compromise *Union* press to be public printer?

MR. BROWN. I will not vote to elect any newspaper editor public printer. I said so yesterday.

MR. KING. I rise to a question of order.

MR. POLK. I see the coalition is now formed. The gentleman from New York [Mr. King], a Free-Soiler, says I am out of order. [Laughter.]

MR. BROWN. I beg not to be interrupted by a side-bar colloquy.

THE SPEAKER. The Chair understood the gentleman from Mississippi to yield the floor to the gentleman from Tennessee [Mr. Polk].

MR. BROWN. I did for a question, but not for a colloquy. Now, let us see, sir, to what strange reasons gentlemen of this committee are driven in justification of their course. The honorable gentleman who sits before me [Mr. Haven], says that he objected to Mr. Rives's doing this work. He already had a large and important job from the government. How many important and profitable jobs has the Republic under the government? Who does not know that the Republic newspaper is

fattened and made sleek by the pap it receives from the Executive departments? All this the gentleman takes no account of. It was his sow that was drinking the swill, and he never thought it worth his while to charge it.

If this printing had to be divided out, why was not more justice observed in the division? Why should the committee have confined themselves exclusively to the Union and Republic? Why take two newspapers, occupying extreme positions, and turn all others out? Why not take in the "old fogies" of the *Intelligencer*? Why were they, like Nebuchadnezzar, turned out to grass? I do not see any reason why they should not have had a share. They are for the compromise. Was it because they had not been peculiarly abusive of the Democratic party, and of the Democratic members of this House? I must confess, sir, if I had to elect between Donelson & Armstrong and the *Intelligencer*, on the one hand, and Donelson & Armstrong and the Republic, on the other, I would take the *Intelligencer* by large odds.

I ask the attention of gentlemen to what I am about to say. What are we to understand by this procedure? My friend from Indiana [Mr. Gorman], on yesterday, when he came to allude to the Southern Press, to which he evidently thought I was much attached, and in whose service I was laboring (and in all of which he was very much mistaken), became almost frantic. His manner was excited, and he became a little denunciatory for a gentleman of his amiable temper. [Laughter.] Why was this? Why was it thought necessary thus to denounce the Southern Press. That paper, as is well known, reflects the sentiments of a large number of the Southern Democrats. Are we to understand, in its exclusion, and the bitter denunciations which follow the mention of its name, that such portion of the Democracy as sympathize in the sentiments uttered through its columns, are also to be proscribed, excluded, and denounced? Is this what we are to understand? And if we are, where is this proscription to stop? If Southern Democrats, who sympathize with the sentiments uttered through the columns of the Southern Press, are to be proscribed before the election, what is to be their position after the election? These are matters, sir, to be reflected upon.

Now, I am free to say to you, Mr. Speaker, to the House, and to the country, that my vote and my course in the presidential canvass, are not to be controlled by your action upon this subject. But I am not authorized to say that your action may not control the votes of hundreds and thousands of others in the South. If you shall indicate to them, that because certain newspapers and gentlemen have defended what they believe to be the rights of the Southern States, they are therefore to be proscribed, they will probably feel it to be due to their own dignity and self-respect to proscribe you in return. Lightly as gentlemen may think of it, this view of the subject may be found worthy of consideration. There are in the states of Georgia, Alabama, and Mississippi alone, one hundred thousand State-Rights men. Proscribe them, proscribe the organ that more nearly than any other in this city reflects their views, and do it because of those views, and I tell you, I will not be accountable for the manner in which they will dispose of their votes. They may not ask favors at your hands for themselves or for any one else, but they may feel it to be due to their own self-respect to resent an insult—to resent proscription. I will not undertake to say what they will do. I

am not authorized, as I have said before, to state what their future action will be; but I do feel authorized, in a friendly way, to say that you should be cautious how you act. You may endanger the success of your presidential candidate. You may endanger a matter infinitely more important to you than the public printing. You may endanger the patronage of the President, and the distribution of the \$50,000,000. A little caution, and a little good temper, properly exercised, and a slight sprinkle of justice and common sense, may save a deal of trouble by and by. It is one thing to give up that which is one's due voluntarily, and it is another thing to have it snatched away, and that in so rude a manner as to give offence. I repeat again that I do not want any part of this printing for any friend of mine on earth. But I should not like to be told that certain parties could not have it because they were my friends. And I think it likely this may be the feeling of a great many southern people.

I do not care, sir, to pursue this discussion. I have said about all that I care to say, and if I go farther, I may say that which had better be left unsaid. The concluding portion of my remarks, I throw out only as a friendly warning to my political brethren here. They can receive them in a friendly spirit or not. I want it to be understood, and it is all I have to say, that when proscription commences for opinion's sake, there can be proscription upon one side as well as upon the other. I offer the following resolution. It is not my own, and does not fully meet my approbation. A friend has handed it to me, with a request that I should offer it. I do so in compliance with his request:—

*“Resolved, That the report of the Committee on Printing be referred to the Committee on the Judiciary, with instructions to report upon the whole subject, and to recommend for the adoption of Congress such a system for the execution of the public printing as they may deem most expedient, and that they especially take into consideration the plan for a printing bureau, for the execution of the work under the supervision of a government officer.”*

Mr. BROWN. The Judiciary Committee had been selected, because in taking this contract, if it must be taken, out of the hands of Hamilton, and disposing of it otherwise, legal questions must necessarily arise, which it will be better to have passed upon by the Judiciary Committee than any other. I have done, sir.

At a later period in the debate, Mr. NABERS and Mr. POLK both made inquiries of Mr. BROWN as to how far he agreed with Mr. RANTOUL, and what he meant by old issues. When Mr. B. was about to respond, he was decided to be out of order.

Mr. BROWN. It is in order to ask questions, but out of order to answer them.

[Mr. BROWN requests the reporter to say, that if he had been allowed to respond to Mr. Nabers and Mr. Polk, he would have said: The time was when the gentleman from Massachusetts (Mr. Rantoul) was accepted as a sound Democrat. President Polk appointed him United States District Attorney for Massachusetts, and thus endorsed him to me and to the nation. He was a Democrat then on the *old issues*. If he has changed his opinions on these issues, I have yet to learn it; and if he has not, he is a Democrat on these issues yet. By old issues, I mean those that divided the two parties in the days of Jackson, Van Buren, and Polk. Such, for example, as the Bank, Tariff, Distribution, and the

**Sub-Treasury.** If the bank charter, or a protective tariff, distribution, wasteful appropriations, or the repeal of the sub-treasury, any one or all of them shall be proposed, I will not reject the aid of the gentleman from Massachusetts (Free-Soiler though he be) in upholding the Democratic side of these questions. These were the issues—the old issues—when the honored brother of the gentleman from Tennessee appointed Robert Rantoul district attorney. On these he was sound at that time; we all trusted him then, and if he has not changed his opinions on these issues, I know of no reason why we should not trust him now.

On the new issues—those growing out of the slavery strife and the territorial acquisitions, the compromise, &c.—there is no bond of sympathy, no affinity between the gentleman from Massachusetts and myself. On all these issues, direct and collateral, that gentleman and myself are as wide apart as the poles. This the gentlemen from Tennessee and Mississippi know full well.

If gentlemen on both sides of the House who are the special friends of the compromise are to be trusted, the slavery agitation, and all the incidental issues growing out of it, have been settled; they were all compromised; and it was but the other day that we passed a finality resolution, which meant, as I supposed, that there was an end of the main issue and all its incidents. Now we have it dug up, resurrected, and dragged in here again, and that, too, by its own best friends. I hope we shall be done with this business.

If fidelity to the Democratic party means that I must vote large and fat jobs of printing to Donelson & Armstrong, and if I can only signalize my fidelity by voting other large and fat jobs to the Republic, I must say to the gentlemen who are croaking "Coalition!" "Coalition!" that, in this view of the subject, I am not faithful, and never mean to be.

I would as soon have the aid of the gentleman from Massachusetts in severing the unholy bonds which unite the Union and Republic newspapers, as I would in pulling down protection and upholding the independent treasury. When a good work has to be done, I will accept aid from any quarter.

It is a weak invention of the coalitionists to raise this hue and cry. And they expect thereby to divert public attention from the fact that they have fastened the Union to one teat of the National Treasury, and then, by way of quieting the Republic, given it another and a better one. Cry coalition as much as you please, the people will inquire by whom and for what reason these things were done.



## HOMESTEADS.

SPEECH IN THE HOUSE OF REPRESENTATIVES, APRIL 28, 1852, ON THE HOMESTEAD BILL, AND IN VINDICATION OF THE POLICY OF PROVIDING HOMES FOR THE HOMELESS ON THE PUBLIC LANDS.

*"Despise not these Squatters."*

The bill to encourage agriculture, commerce, manufactures, and all other branches of industry, by granting to every man who is the head of a family, and a citizen of the United States, a homestead of one hundred and sixty acres of land out of the public domain, upon condition of occupancy and cultivation of the same, for the period herein specified, being under consideration, in Committee of the Whole—Mr. BROWN said :—

MR. CHAIRMAN :—It is my purpose to submit a few remarks on the proposition before the committee, and, however tempted by the example of others, I shall endeavor to keep within the lines of legitimate debate on the bill and the pending amendments.

I claim to have been among the earliest, as I have certainly been among the most steadfast friends of the wise and humane policy of providing homes for the homeless.

This government is the largest landed proprietor in the world. Its acres of untilled soil are numbered by the hundreds of millions. Of the area embraced within the limits of the Union, only about one-third is in the hands of private individuals. Nearly two-thirds belong to, or are subject to the disposition of the federal government. Under the general authority to *dispose* of and make all needful rules and regulations respecting the *territory* and other *property* of the United States, Congress has from time to time disposed of the territory for cash, and on a credit. Congress has disposed of the territory for school purposes and for internal improvement purposes, giving it to the states, to corporations, and to private companies, for these and other purposes. Congress has, from time to time, voted bounties to soldiers, to be paid in land; and these bounties have been voted in times of war, as an inducement to volunteer, and in time of peace as a naked gratuity. This legislation—these modes of disposing of territory—has received the sanction of all the presidents, and of every class of politicians. Precedent, I grant you, is the weakest of all authority, but so far as it goes, it settles the question of power in this case. If Congress can sell the public lands on a credit, or for one dollar and a quarter cash, per acre, why may we not sell them for one dollar, or for ten cents, or for one cent per acre? If we can give the new states, as we did in 1842, five hundred thousand acres each for internal improvement purposes—if, as in the case of every new state, the sixteenth section in each township can be given for common-school purposes—if, as in the case of my own and most of the new states, we can give lands for seats of government, and for colleges and for universities—if, as in the case of the Mexican war, and later, in the case of all our Indian and other wars, the honorably-discharged soldier can have lands *given* him, is it not idle to dispute the plenary power of the

government to dispose of these lands—to give them, if you choose, to actual settlers?

The government holds the lands of Oregon by the same title—certainly by no higher title than it holds the lands in Mississippi, Minnesota, and other states and territories—and it is within the recollection of all of us, that during the last Congress we gave lands to the settlers in Oregon—to some a whole section; to some a half section, and to some a quarter section. Here is a precedent exactly in point, and it covers the whole question of power.

No one doubts my disposition to construe the powers of this government strictly—to confine it within the sphere of its delegative powers. And yet, looking at the unlimited authority given by the Constitution to dispose of the territory as property, I am free to confess that my mind is not only clear, but it is free from any shadow of doubt as to the power.\* It is given in express terms, and nothing is left to implication. That the power may be abused is certainly true; and that abuses may violate the spirit of the Constitution is just as true. It is expected of Congress that it will dispose of the territory judiciously, and for the common good. A prodigal and wasteful disposition of it would be an abuse of power, and therefore a violation of the spirit of the Constitution.

The abuse, or the apprehended abuse of a power, does not at all affect the question of its existence. Congress, for example, has the power to declare war, and to this there is no limit. An unnecessary or wanton declaration would violate the spirit of the Constitution, but it would not affect the question of power. No one can dispute the power of Congress to declare war, however much we may deprecate its exercise in a given case.

The power to dispose of the public lands is just as clear as the power to declare war, and it is quite as unlimited.† I apprehend, therefore, that gentlemen are mistaken when they deny the constitutional power of Congress to pass this bill. The power is one thing, the propriety of its exercise is another, and a very different thing.

This brings us to consider the expediency of passing this bill. If it shall be found promotive of all the essential interests of the government,

\* See art. 4, sec. 3, U. S. Constitution.

† This proposition may be stated too broadly. General Millson inquired of Mr. Brown, at a later period of the debate, whether Congress could give the whole of the public lands to the President of the United States? Mr. Brown answered, "Yes; Congress has the power. To exercise it would be a monstrous abuse of power, and would, therefore, violate the spirit of the Constitution." General Millson reminded him that the compensation of the President could not be increased during his term of service. Mr. Brown admitted, that in this view of the subject, he had stated his proposition too broadly. If the gentleman from Virginia had asked him (Mr. B.) if the President's compensation could be increased by giving him land, Mr. B. would have answered, No. But this was rather a question as to the power to receive on the part of the executive, than the power to give on the part of the legislature.

Mr. B. admits that the power of Congress over the territory, as given in the third section, article 4, of the Constitution, may be limited (as in the case cited by General Millson) by the prohibitory clauses in other parts of the Constitution. But he maintains that there is no such prohibition in regard to the settlers or other citizens, and therefore that the power is plenary as to them. It was this class of people that Mr. Brown had in his mind's eye when he stated his proposition that Congress had as unlimited power over the public lands as it had to declare war. And in this view of the case he adheres to his first proposition.

I take it, there can be no dispute about its expediency. And if it shall be found expedient, we shall be excluded from the conclusion that it is violative of the spirit of the Constitution. No exercise of a specific grant of power can violate the spirit of the Constitution, when it is only carried to the extent of promoting the *general welfare*.

If the bill shall pass in the form in which it was moved by my honorable friend from Tennessee [Mr. Johnson], or if the substitute moved by myself shall be preferred, in either case the great essential object aimed at by the friends of the *homeless* will have been attained. Homes will have been provided for all.

I shall presently contrast the relative advantages of the original bill and the substitute. But before entering upon this branch of the subject, allow me to submit a few general remarks on the point as to how the general interest of the country is to be promoted by the passage of this bill. The field for observation which opens at this point is a large one, and I do not propose to occupy the whole, nor indeed any considerable part of it.

It is indisputably true that every government has a general interest, as every good man certainly has a special interest, in preserving and promoting the public morals. Homeless people are generally an idle people, and idle people almost always become vicious. It has been aptly said, "an idle mind is the devil's work-shop." Men with homes are sometimes vicious, but men without homes are generally so. As a conservator of the public morals, I would pass this bill, and thus promote the *general welfare*.

We all have a stake in the happiness of our kind. Poverty and happiness are not incompatible. Indeed, they may be found in very good companionship. But when poverty becomes so inexorable as to turn a man, with his wife and children, out of doors, happiness is very apt to take its departure. A very sublime degree of piety might enable one of us to exclaim, "the foxes have holes, and the birds of the air have nests, but the son of man hath not where to lay his head," and yet be happy. But, I take leave to say, it has fallen to the lot of but few of us to be blessed with such a sublimity of piety. As one who looks to the happiness of the people, I will vote for this bill, and in this way promote the *general welfare*.

Every man who loves his country will sow the seeds of patriotism, not among thorns, nor upon stony ground, but upon good ground, where they may vegetate and bring forth fruit, ten, sixty, and an hundred fold.

When the hundreds and thousands of your homeless people look out upon your vast domains, and see them tenanted only by wild beasts, they will ask, is my poverty so great a crime that my government prefers these beasts to me? am I to be kept in penury and want, and leave to my children no inheritance but poverty, whilst my government guards, like a surly mastiff, this mighty wilderness, which God in his providence has created for man, and not for beasts? These men's hearts will become stony, and the seeds of patriotism, though sown therein by your wisest, purest, and best political husbandmen, will not vegetate. Withdraw, then, your sullen, dogged watch over these lands. Say to your people, Heaven, in its bounteous providence, has given these lands and their fulness for your benefit: go and enjoy them.

Their hearts will leap with joy ; the seeds of patriotism, though sown by such poor husbandmen as ourselves, will spring up and grow. They will put forth shoots that will entwine themselves about the country, and, growing stronger as they grow older, they will knit the hearts of the people to the government as with threads of steel. As I would encourage patriotism, I would pass this bill, and thus promote the *general welfare*.

The whole country as a unit, and all its parts, is and are interested in the profitable employment of the productive industry of the nation. It has been well said that "the man who makes two blades of grass grow this year, where but one grew last year, is a benefactor of his race." How much more must he be a benefactor who subtracts hundreds and thousands from the consuming, and adds them to the producing classes ; or causes by his judicious policy, a barren wilderness to pour its millions into the nation's store-house ! As I would employ labor—as I would reduce the number of consumers and increase the number of producers ; as I would reap rich harvests next year, where nothing has been planted this year—I would pass this bill, and in this way promote the *general welfare*.

If the public morals may be improved, the public happiness promoted, patriotism enlarged, and the wealth of the nation increased by the passage of this bill, why shall we not pass it ?

We have seen there is no lack of power. It seems to be promotive of the general welfare. If there be well-founded objections to its passage, they must therefore exist in some other quarter. This leads me to inquire whether any general or local interest will be injured if the bill passes ?

It has been urged by the representatives from the old states that it will draw off their population. That the new states will grow strong under its operations, whilst the old states will grow proportionably weak. This objection is not well taken.

That there will be an impetus given to emigration, if the bill passes, is possible, but of its character, in the main, there can be no question. The landed proprietors—those who have comfortable homes, and are living independently—will find no sufficient inducement in the provisions of this bill to abandon those lands, give up their homes, and seek the privations incident to a new country. The well settled and prosperous portion of your citizens will not leave you to embrace the advantages of this bill.

In all the old states there are large numbers who are landless and houseless, who are dependent on the bounty or favor of others for the means of living. There are many thousands who belong to the consuming rather than to the producing class. Is it your interest or your policy to retain such a population ? Is it not better to give them up, let them go, and even encourage their exit ? I do not mean to say that these people, under other circumstances, might not be good and profitable citizens. I intend to say that a man without a house, and without a home, is very likely to fall into bad habits, and to become an incubus upon the country in which he lives. And that it is therefore better to encourage this emigration to a country where he can have land, a house, a home, and where he will be almost certain to become a useful citizen.

Of the thousands in the old states who have neither lands nor houses,

how few will ever rise above their present position! Some, I know, will set poverty at defiance, and move on to independence, or, it may be, to fortune. But the great mass will live and die as they have begun life, with no estate but penury.

In this view of the subject, the local interests of the old states will not be injured, but must, on the contrary, be essentially promoted by the passage of this bill.

I can imagine no worse condition of society than where a considerable portion of the people are without homes of their own, nor any better condition than where every man is his own landlord. Instead of sending sheriffs with armed *posses* to collect rents for the lordly proprietor, let us say to the unhappy tenants, Give up these lands, and take others that are better. They are the free-will offering of your government. In all this I see no sacrifice, but rather the promotion of the local interests of the old states.

The fear has been expressed that the passage of this bill will encourage an influx of foreigners, and that, instead of 500,000 per annum, we shall have 1,000,000 of emigrants to our shores. I do not think so. All come now that can get here. They come for freedom, and not for land. But suppose this prediction should prove true, I shall not be appalled. Let them come; yes, sir, let them come. They are of the same great family with ourselves. Heaven made this mighty continent not for our benefit alone, but for the use and benefit of all mankind. Let them come to it freely. It is the gift of God, and we have no right to withhold it from his people.

What is the objection to an increase of our foreign population? I have heard but one that is worthy of consideration; and that is, that they congregate about our towns, oftentimes become unruly, and too frequently swell the calendars of crime. This bill strikes down this objection at a single blow. It encourages these people to abandon the purloins of your towns and cities; to give up vagrancy and crime, and become the owners, occupants, and independent cultivators of the soil. Does any man object to the Irish or German emigrant who cultivates the soil with his own hands? Is he not as orderly, as quiet, and as law-abiding a citizen as your native sons? And do not the products of his labor go as far towards an increase of your national wealth? For one, I am willing to receive all who come to us from abroad, if they come to cultivate the soil.

Heaven has bounded our republic with two mighty oceans, thus placing a barrier deep and wide between us and the despots of the old world. I would not impiously defy the protection of Providence by crossing this barrier to attack despotism in its stronghold; but upon every breeze that sweeps the Atlantic I would send a message to the oppressed millions of Europe, bidding them come—come to an asylum on these shores, prepared by the Almighty, and defended by his chosen people.

It is said again, that this is a scheme of the Jesuits to extend the Catholic religion in our country, and to cripple or put down the Protestant faith. I was raised a Protestant believer, and I hope to die a professor of the Protestant religion. But it is no part of my Protestant faith to fear the Catholics. I am no more afraid that the Catholics will upset the Protestant church, than I am that the subjects of crowned heads in Europe will overturn Democracy in America. To the Catholic

as well as to the Protestant emigrant, I extend a hearty greeting, and a cordial welcome. If he cultivates the soil, he will most likely be a Democrat; and whether he worships in a Catholic or Protestant church, he will make us a good citizen.

I have heard it said, the effect of this bill, if it becomes a law, will be to encourage foreign emigration, and that as most of these come to us with strong anti-slavery prejudices, we of the South are but nerving the arm of an enemy when we advocate its passage. If slavery is to be defended by excluding those from abroad who have prejudices against it, its doom is fixed, and the sooner the fiat for its extinction goes forth the better. I place my defence of this institution on the high ground of moral, social, religious, and political propriety, and if I cannot defend it on this ground I will not defend it at all. The right is never so much in danger as when its advocates shrink from an open and manly vindication of it. Justice may be overthrown if its votaries skulk and prevaricate in its support. Resting the defence of slavery upon high moral principles, I do not fear its overthrow, unless by the brute force of superior numbers. An untamed multitude, revelling in the insolence of unbridled power, may tear down the Constitution and bury slavery beneath its ruins. If this is the destiny to which the mighty North is conducting us, it does not matter whether we reach it during our pilgrimage on earth, or leave the journey half concluded, and entail on our children the melancholy task of following it to the end.

If American-born citizens will do their duty, we have nothing to fear from our emigrant population. If the native son refuses to do his duty, and wages war upon the Constitution, and upon the rights of his neighbors, we have then nothing to hope from any quarter. We must stand firmly by our section; and self-poised in the vindication of our rights.

If we contrast the relative position of the two great sections as to the public domain, we shall see how little there is in the idea that this bill gives an undue advantage to the North.

There is comparatively little soil in the Southern States belonging to, or under the control of the United States, and that little is of inferior quality. There are vast tracts in the Western States and territories, and much of it is of very superior quality. It follows, therefore, that, under the present system of disposing of the public lands, emigration to the Southern States must fall off rapidly at first, and presently cease altogether, whilst the stream to the West will increase in volume, and continue for a great while. The refuse lands in Mississippi, Alabama, Louisiana, Florida, Missouri, and Arkansas, will never be occupied at \$1.25 per acre, and out of these states we have little or no government lands in the slave states. The good lands in Illinois, Iowa, Wisconsin, Minnesota, and the western territories, will very soon be occupied at \$1.25 an acre, or even at a higher figure.

I am for changing the policy so as to give us occupants for our refuse lands; and if in doing this, we send tenants to your virgin soil a few years earlier than they would otherwise go, I do not still perceive but that we shall be more gainers than losers by the operation.

I submit to my southern friends whether it is not better to divide the emigration with the North for a few years at least? Is it not better to take an addition to our population of a million in five years, and give the North two millions in the same time, than to stop emigration to the South

entirely, and let the North have her two millions at the end of ten years? I take this to be true, that without a change of policy we shall never get our poor lands settled; and it is just as true, that the virgin soil of the West will be occupied in a few years, whether we change our policy or not. I want a change. It will people our lands, and if it has the effect of giving to the North as many emigrants in *five* years as she would otherwise get in *ten*, let it be so. It is only a question of time with them. Emigrants will go to them after a while under any policy. With us it is different. Our lands have all been picked and culled, and the refuse tracts may be peopled under this bill, but never at a cost of \$1.25 per acre. I throw out these observations to show my southern friends that this is not a losing business to us.

I admit the obligation of a representative to guard the interest of his own constituents, and in this view I am for reform. I admit my sectional predilections—prejudice, if you please—and yet in this view I am for reform. Regarded in any and every light, I am for that policy which will populate our vacant lands, and give homes to the homeless and houses to the houseless.

The people who will be chiefly benefited by this bill, are among the most meritorious and yet the least cared for of all our population. The landless, the homeless, the houseless—who are they, and what are they in the old states? Hardy sons of toil, slighted by the world for the crime of being poor, and elevated to the dignity of freemen only on election days. In the new states, under the operations of this bill, they will become freeholders and householders, and will be at all times, and in every season, equal to the proudest nabobs in Christendom.

I know something, Mr. Chairman, of squatter life. It was my fortune to have been raised in a new and unsettled country. I know something of the toils, and hardships, and privations encountered by the squatters. I shall not detain you with a recital of all that I have seen, and heard, and felt. One incident I may relate. I will tell you why my heart is with these people. When I was a boy—a very little boy—an honest, but poor man settled (squatted is a better word) in the country where I yet reside. Removing from South Carolina, he pitched his tent amid the unbroken forest in the dead of winter. He had two sons able to work. He was in a strange land, without money and without friends. But with an iron will, such as none but squatters have, he attacked the forest. It receded before him, and in three short months the sun, which had been shut out for many centuries, was permitted to shine on a spot of earth in which the squatter had planted corn. Day by day he might have been seen following his plough, while his two sons plied the hoe. Toil brought him bread—and he raised up his sons to know, as Heaven's wise decree, that "by the sweat of their brows they should gain their bread." Industry and economy brought not wealth, but a competency. The elder of the two sons followed the example of the father, and cultivated the soil. Fortune smiled and he prospered. The younger, with such moderate qualification as a frontier country could afford, studied law and practised with success. In an evil hour for his private fortune, he was drawn into politics. He was elected to the state legislature, to Congress, judge of the circuit court, governor of his state, to Congress again and again, but he never forgot that he was the squatter's son. He stands before you to-day the humble advocate of the squatter's rights.

That, which was my father's fortune, and the fortune of his sons, has been, and may be again the fortune of others in a more pre-eminent degree. Nature has created no aristocracy of intellect. Despise not these squatters. Among them is many a rough diamond. They and their sons may rise to the first honors in the republic. Reared in no hot bed of aristocracy, never enfeebled by the enervating influences of wealth and luxury, their bodies are capable of unlimited endurance, and their minds are prepared for that rational progress which is the pride and boast of "Young America," and of the age in which we live. Is it at all wonderful, Mr. Chairman, that my heart should be always open to the privations and hardships, the wants and sufferings of the squatters on the public lands?

My associations with these people have never ceased, and I trust they never may. I have partaken of their fare. I have eat their bread, and slept beneath their humble roofs. Generous to a fault, with hearts free from guile, they receive their guests with an open, frank, and manly bearing, that says at once, You are welcome. A squatter never says from his lips *I am glad to see you*, and in his heart wish the devil had you. This is a refinement on duplicity which belongs alone to the "rich and well-born."

I approach that point in this discussion which, of all others, is the most interesting: The best and most certain means of securing every man a home. How may this be done? My friend, the mover of the main proposition [Mr. Johnson of Tennessee], thinks this end will the most certainly, and in the best manner be secured, by giving to every man the right to settle on the public lands, and by conveying to him the title in *fee simple*, after a continuous residence of five years.

I am not going to make an argument against my friend's proposition. I honor the head that conceived it. The heart that is capable of such appreciation of the poor man's wants, is entitled to and receives the homage of my poor esteem. The nation, and, indeed, all mankind, should yield a grateful tribute to the mind that, almost unaided, has forced the consideration of this subject upon the American Congress. No; I am not about to oppose the main proposition; but I am about to inquire whether, in its details, it offers us the best guarantee that the first great object sought by us, that of giving homes to the homeless, will most certainly be obtained.

It proposes to surrender to the occupant the absolute title, after a continuous residence of five years on the land. If all men had capacity for managing with success their own private affairs; if all were provident, and we had security against the misfortunes of ten thousand kinds to which men are subject; if we had not already a full realization of the fact, that

"Man's inhumanity to man,  
Makes countless thousands mourn;"

if men would learn to "love their neighbors as themselves;" then I should think that no better scheme had ever been devised than that of my friend from Tennessee, for securing every man a home. But we must look at men as they are, and shape our acts accordingly.

I feel under no sort of obligation to give land to any man by my vote, to be used in paying debts improvidently or viciously contracted. I



shall not undertake to pay debts forced upon any man by misfortune. If debts have been contracted in consequence of disease or death; or of fire or water, or any other misfortune; or if, as is too often the case, they have been contracted by a foolish improvidence, or by drinking and gaming, I cannot and will not, in my legislative capacity, undertake to provide the means for their payment.

Suppose you give these lands in the mode proposed: Is there not great danger, that at the end of the five years' occupancy, a great deal of them will pass into the hands of sharpers and speculators, as the bounties to your soldiers have passed? It is no disparagement to mankind to say, that hundreds and thousands of them have no capacity for the transaction of business. God has made them so. May not a class of men more cunning than those for whom you are providing, draw settlers into contracts, involve them in debt, and at the end of five years, seize the very land you are now so generously giving?

It is not more a matter of reproach than of pity, that men will drink and gamble, and thus waste their substance. One man plies another with intoxicating drinks, or decoys him to the gaming table. In the one or the other case, he is made the easy victim of craft or villany, and this land which you are now voting in a spirit of generosity, may go to settle the account between them.

It is no man's fault that misfortunes fall upon him, and yet disease may prostrate him and involve him in debt. His domestic animals may die. Too much rain or too much drought, a late spring or an early frost, may cut off or destroy his crop. Floods, storms, or fires, may lay waste his property. A thousand misfortunes like these may run him in debt; and then inexorable creditors may come and take away his land, and leave him no better off than before you gave it to him.

To all this I am opposed, and against all these contingencies I would provide, as far as possible; and hence the substitute which I have proposed to the original bill.

The leading idea of my substitute is, that the settler shall have the right of occupancy so long as he chooses to remain on the land, being never required to pay for it, but always at liberty to do so whenever it becomes his desire and his interest to own the soil in fee simple. The *fee* under my substitute remains in the government until the occupant can receive it with safety, of which he is made the judge. If the substitute is adopted, it will make no difference how a squatter's debts may have been contracted—whether by improvidence or dissipation or misfortune—his home is secure. The government gives him the right of occupancy, and no power on earth can take it from him. Secure in its possession, the energies of his mind and body will be free to expand and rise above the petty tyranny of a neighboring creditor. He will not be afraid to improve his grounds, or repair his fence, or stop the leaks in his cabin, lest he excite the eye of cupidity. He will not watch the clouds with a aching brow, lest it fail to rain upon his growing crop, thus dooming it to destruction, and himself to bitter disappointment in getting the means to buy his preëmption. Let fortune smile, or fortune frown; let it rain, or let it shine; let storms or devastating floods come upon him, he may look them all in the face, and say, this is my home, this the castle of my defence: my government stretches over me its strong protecting arms, and bids my heart be still, for

in this, at least, I am secure. I fix no five years of security; and after that, nor any other period, expose the poor man's home to execution sale; but for five years, and for all time thereafter, he is made secure in its occupancy. He need not look with a sad heart to the end of the five years, nor fear that his creditors will then come to take possession of his home, and turn him out of doors. His wife need not water with her tears a favorite plant, nor count the hours that are bringing the moment of her separation from her humble cottage. His children may pursue their childish sports, nor sigh as they look for the last time on some favored spot, made sacred by the recollection of many an happy hour spent there in childish revelry. Whatever may be his and their relations with the world, the whole family—husband, wife, and children—may rest secure in the possession of their home. There they may cluster around them the comforts of life—nor disturb their moments of quiet or repose with anxious fears, lest some inexorable creditor shall snatch it from them. Such, sir, is my substitute.

If fortune smiles on the humble occupant; if, by his labor, he has enhanced the value of the land, and for this, or for any other reason, he desires to possess it in his own right, he may pay for it at the minimum price of \$1.25. This is his privilege; but it is a privilege that belongs to no one else. If, by his labor, he makes the land worth \$10 an acre, he may still buy it for \$1.25; and this he may do at the end of five years, or twenty years, or at any other time that suits him best. And if he never does it, the government will never permit another to take it from him. If he has made an unfortunate location, my substitute allows him to change it; and this he may do as often as he chooses—it being stipulated that whenever a place is abandoned or given up by an occupant it is again subject to entry or occupancy by any one who may choose to take it. If the husband dies, his right of occupancy survives to his widow. If both husband and wife should die, leaving *infant* children, the *fee* passes to these children, and it may be sold for their benefit. This provision has been inserted for two reasons: first, infant children cannot occupy the land alone; and secondly, these objects of misfortune, thrown, without father or mother, on the charities of the world, are entitled to our protection. If they find a parent's care nowhere else, I would let them to this extent, at least, find it in their government.

I have purposely excluded the adult children from all interest in the homestead, and for the reason that, as they become of age, each one acquires the same right that his father had before him; and I desired to encourage the rising generation to enter upon the active duties of life at an early age, instead of lingering under the parental roof.

That the new states within which these lands lie might have no just ground of complaint, I have expressly reserved to them the right of taxation. It will be the privilege of states to tax the settler, and in default of payment to sell his right of occupancy. The purchaser at such sale will acquire the same and no greater right than the settler. That is, he will acquire the *right* of occupancy for an indefinite term, with the *privilege* of entering the land at his pleasure, and to suit his own convenience.

There is one feature in my substitute which I must not omit to mention. It perpetuates the existing preëmption laws. The same parties

who are entitled to preëempt under the law as it now is, will have the right if the substitute is adopted, and they will enter upon the lands under the same regulations and in the same way that they now do. The only alteration proposed being in the removal of the twelve months' limitation, and all other limitations as to the time when the right of occupancy shall cease. The right of occupancy without payment, under my substitute, is unlimited, it being the exclusive privilege, but never the duty, of the occupant to buy the land. The perpetuation of the existing law of preëemption is better than the enactment of new laws. First, because the old laws have been adjudicated by the courts; second, because they have been construed by the executive departments; and thirdly, because the people generally understand them, and will need only to be told, if the substitute passes, that the law exists just as it did before, with the single exception that they will not be compelled to pay until it suits them.

I have already pointed out some of the public and private advantages which will result from the passage of the original bill. All these will result in an equal degree from the adoption of the substitute. I have pointed out some of the advantages which are peculiar to my proposition; but there are others to which I must advert.

The proposition has been assailed on the ground of its squandering the public lands and cutting off the revenue resulting from their sale. I shall show that there is nothing in these objections. What is it that you give under my substitute? Nothing but the right of occupancy—the right to occupy a bit of land in the wilderness, and therefore unproductive—and the right to improve and cultivate that land, and make it useful to the occupant and beneficial to the general wealth. In this there is not only a private, but public advantage. You make that productive which was before useless, and of no public or private benefit. But you answer, that I put an occupant on the land who may be a drone—one who will not cultivate or buy it himself, and yet, by his occupancy, keeps off all others; and generally that these unlimited rights of occupancy will prevent sales, and therefore destroy the land revenue. In all this, I think you are mistaken. That which a squatter on the public lands most needs is to have his energies—physical and mental—left free. This twelve months' limitation hangs like an incubus about him. It paralyzes his body and disturbs his mind. Whilst he can hope to pay for his land at the expiration of the time limited by law, his energies are unshaken; but when hope dies—when, from any one of a thousand causes I could name, he foresees that he cannot pay, his energies sink—then it is he becomes a drone. He will not work, because he sees that every lick he strikes enhances the value of his little home, and more strongly attracts the eye of the speculator. These are the shackles that have bound many an honest and industrious man, and made him an easy victim to idleness and vice. Let us knock them off—let the man's mind and body have fair play. Give him plenty of time and plenty of land to work out his fortune, and nine times in ten he will do it.

Your present preëemption system is a curse to the settler. He is first inveigled on to a piece of public land, and then he is afraid to improve it, lest some speculator, with more money than himself, shall take it from him. It is this fear that cramps his energies, and makes him idle,

and sometimes vicious. I have great confidence in the squatters, if you will only give them an open field and a fair fight.

But, as a revenue measure, I should advocate this bill. Its earliest advantages will be found in the increased productions of the country. It will, as I said before, subtract largely from the consuming classes, and add as largely to the producers. I need not attempt to estimate the advantages to the national wealth, if all the loafers and idlers in the Union can be set to work. The advantages would indeed be incalculable. This measure proposes a bonus to all who will cultivate the soil. How many thousands will accept it I cannot say—but that many will I have no doubt.

The next advantage which I anticipate, will be found in the increased sales of the public lands. Yes, sir, instead of diminishing, I anticipate an increase of revenue from this source; and particularly if my substitute is adopted. When a man has settled on a piece of land, and has by his labor increased its value from one dollar and a quarter to five or ten dollars per acre, he will find many reasons for desiring to possess himself of the freehold; first, because he may want to sell it, and thus increase his active wealth; or he may, and in many cases he will, prefer to own the land in his own right, that he may enjoy the privilege of making an equal distribution of it among his children; and then there is a certain feeling of independence which all men experience in owning, by a clear title, the lands and houses they occupy. These are some of the reasons which will induce the settlers to purchase the land. What we ask of you is simply the right to occupy, free from all restraint and apprehension; and we give you the guarantee which these and other reasons afford, all of which are founded in human nature, that your sales will be increased instead of being diminished.

I pass over the general advantages resulting from early settlement on your frontiers; I say nothing of the gregarious habits of men—how one man goes because another has gone before him. I will not pause to count how much more land men will want when their industry has lifted them up in the world. These and many other considerations I pass over, because my time is almost out.

A word in conclusion to the friends of this measure.

It is an old trick in this House, when the enemies of a bill cannot slaughter it in an open field, to attack it in ambuscade. Many important bills have been killed off in this way, and you could no more discover the hand that strikes the blow, than you could tell "who it was that struck Billy Patterson." The bounty-land bill was disposed of in this way for ten years.

The *modus operandi* is this: We go into committee of the whole on a bill. Here the ayes and noes are not recorded, and consequently no responsibility attaches to any man's vote. All manner of amendments are offered. Some intended in good faith to perfect the bill, but much the greater portion to make it ridiculous. They are passed on a division, or by tellers indiscriminately, until finally the features of the bill are so distorted that its friends do not recognise it, and they turn from it in disgust. It is then left to the tender mercies of its enemies, and they table it without compunction or hesitation.

We are about closing the debate on this bill, and then we shall be brought to vote on amendments. I anticipate the usual course of pro-

ceeding. I shall not be surprised to see an amendment proposing to give every man a horse and a plough; another to supply him with all the necessary farming utensils, and a third to give him a negro to work his land, and others of like kind, and all intended to bring the bill into ridicule, and finally to destroy it. I need not say that such a mode of attack is ungenerous. Give us a fair record vote; let every man take the responsibility, and if the bill is lost, the country will know who were its friends and who its enemies, and with this we shall be satisfied.

I call upon the friends of this measure to stand by it and protect it as far as possible in committee against these amendments. If amendments are proposed in good faith, let us give to them a just, fair, and proper consideration. But let us stand united against all ridiculous and frivolous amendments meant only to destroy the bill. If improper amendments are adopted in committee, let us not on that account abandon the bill, or allow it to be tabled in the House. We can have the ayes and noes in the House on each amendment, and thus vote them out or force gentlemen to stand by them on the record. This is the only policy that will save this bill from the fate of many of its predecessors.

With an ardent desire that this measure may pass—that it may be sent as a messenger of joy to the humble abodes of the squatters; and that, as a harbinger of mercy, it may visit the landless, the houseless, and the homeless everywhere, I take my leave of it for the time being, and commend it to the paternal care of its friends in the House.

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## RIVERS AND HARBORS.

SPEECH, UNDER THE FIVE MINUTE RULE, IN THE HOUSE OF REPRESENTATIVES, JULY 23<sup>d</sup>, 1852, ON THE SUBJECT OF RIVER AND HARBOR IMPROVEMENTS.

I OFFER the following amendment:—

For removing obstructions from the mouth of Pascagoula river, in the state of Mississippi, \$60,000.

Gentlemen belonging to the Committee on Commerce say that appropriations of this kind have not been inserted in the bill because they have not been asked for. I sent to that committee a petition for this very appropriation, and not only has it been left out, but no sort of notice has been taken of it.

I was proceeding to say, that the members of the Committee on Commerce were wholly mistaken, as far as the proposed appropriation was concerned, when they said that it had been left out of the bill because it was not asked for. More than once, petitions for this appropriation have gone to that committee through the ordinary channels. I have not, it is true, gone and besought the members of the committee in person, to put into the bill this or any other appropriation. I have neither begged nor bargained for that which I have a right to demand in the name of my constituents. My constituents petitioned, as was their right; and I presented their petition, as was my duty. And I took it for granted, that the members of the Committee on Commerce, like the members of

the other committees of this House, would discharge their duty. Still, I find this bill reported, and no notice taken of those petitions. I find, also, and it is that of which I especially complain, that the state which I have the honor in part to represent upon this floor—a state which supplies to this government one-seventh part of its exports, and, by consequence, one-seventh part of its imports, and which, therefore, supplies one-seventh part of the whole revenue of the government derived from imports—has not had appropriated to it in this bill one single solitary dollar; not one farthing. Sir, the state of Mississippi has been entirely overlooked in the preparation of this bill.

A VOICE. So has Virginia.

Mr. BROWN. No, I think Virginia has not been entirely omitted. She has something, but Mississippi has not one dollar from the commencement to the conclusion of the bill. This is the only item that has been asked for, and it was due to that state that it should have been granted; or if not granted, the petitions should have had at least a decent and respectful consideration. Why is this? Why are our petitions thus trampled under foot and spit upon? Is it because the Mississippi delegation come here subscribing to the doctrine of a strict construction of the Constitution? Are you going to establish the principle in this country, that money is to be doled out to those only who believe that a liberal construction of the Constitution is right? and are you going to refuse appropriations to those who take a different view of their duty to the Constitution? Are the liberal constructionists—those who believe the government may and ought to make these appropriations, about to band together, seize the public money and appropriate it to themselves, and will they deny to those who dispute their power to appropriate all participation in a common fund? If that be the principle upon which you are going to act, why, let us understand it. I understand that the treasure of the nation is the common property of the nation, and is not to be distributed to the states according to the opinions of their representatives on a constitutional question. We hear all around us that gentlemen have not been able to get their items of appropriations put into this bill, because they themselves believe that such appropriations are unconstitutional. Sir, have we fallen upon times like these, that gentlemen band themselves together to seize upon the national treasure and appropriate it to their own use, denying all share to those who chance not to agree with them in their construction of the constitutional power? If that is the doctrine, let us understand it.

I have been falsely charged with being a disunionist; but if it be true that gentlemen who believe the national treasury is subject to the unrestricted legislation of Congress, may seize the common fund, divide it among themselves, and deny all participation to those who will not justify the division, then, sir, I say it would be as honorable to consort with highwaymen as to live in such a Union. When the surplus revenue was distributed, were Virginia and Mississippi denied their distributive share because they opposed the distribution? No; if you have so much respect for our opinions as not to give us our share of the money because we think you ought not to use it in this way, then I pray you carry your respect a little further. We believe that you have no power to tax us as you do under the protective policy. Will you so far respect our opinions as to withhold taxation? No, sir; you will impose taxation whatever

may be our opinions; and you do it without stint or mercy. It is only when you come to disburse the money that you are seized with these violent fits of respect for our opinions. If you cannot appropriate money in my district out of respect for my constitutional opinions on the subject of these appropriations, then carry your respect a little further, and quit taxing my constituents until I am satisfied that you are doing it according to the Constitution. If you may take money out of my district without my consent, you may put it back without my consent. If we are to have a partial system of distribution, then let us have a partial system of taxation. If my state is to be thus excluded from the appropriations, let her be stricken from the tax list. Cease to draw money from her, and she relinquishes for ever all claim upon the national treasury. But if the hand that gathers is thrust into her pocket, she calls it robbery if you close against her the hand that distributes.

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## GENERAL COMMITTEE ON CLAIMS.

SPEECH IN THE HOUSE OF REPRESENTATIVES, DECEMBER 20, 1852, ON THE PROPOSITION TO ESTABLISH A GENERAL COMMITTEE ON CLAIMS.

MR. BROWN. I ask the unanimous consent of the House to introduce the resolution which I proposed on Friday last.

There being no objection, the resolution was read, as follows:—

“*Resolved*, That the following be added to the rules of the House of Representatives:—

“There shall be appointed a standing committee of the House of Representatives, to consist of fifteen members, to be called *The General Committee on Claims*, whose duty it shall be to report a bill at each session of Congress making appropriations for the payment of private claimants. It shall be the duty of the other committees of this House, when they have prepared a written report in favor of any claim, to transmit their report, together with the evidence on which it is based, to said General Committee on Claims; and if said committee, after due examination, shall concur in said report, they shall insert an item for the payment of said claim in the bill for the payment of private claimants, and thereupon submit to the House the report and evidence aforesaid, to be printed or otherwise disposed of, as the House may direct. And upon the demand of a single member, a separate vote shall be had on any section of said bill designated by him, notwithstanding the previous question may have been moved and seconded.”

MR. BROWN said: Mr. Speaker, it is conceded that the present mode of treating private claims amounts to a denial of justice, and ought to be changed.

For several years a proposition was urged upon Congress to establish a board of claims. For a time I was strongly inclined to sustain this proposition; but reflection satisfied me that, to make it efficient, it would be dangerous, and possibly a violation of the Constitution.

A board of claims would investigate; but it is not investigation that we want. We want action—final action. Our present committees investigate claims and report bills, but we do not pass those bills. Bills to which there is no reasonable objection remain for years upon the calendar without action. The claimant grows weary and sick with hopes

deferred, but Congress will not act. The bills are not passed, and just claims are not paid. This ought not to be. The creditors of the government have as much right to their pay as the creditors of private persons.

These tedious and sickening delays ought to be remedied. It cannot be safely done, in my judgment, by the appointment of a board of claims. It is the least objection (and yet it is an objection) to the appointment of such a board that it will increase Executive patronage, already grown quite too large.

If such a board is created, it will, as I have said, give us investigation; but what then? "No money shall be drawn from the treasury but in consequence of appropriations made by law," says the Constitution. Will you appropriate an aggregate sum, and allow the board to check it from the treasury as they may see fit, and apply it to the payment of claims? To do this, you must delegate to the board a power over the public funds which belongs exclusively to Congress, and which I very much question your right to transfer to another. The right to appropriate presupposes the existence of an object to which the appropriation may rightfully be made. The Constitution, in my judgment, contemplates that Congress shall decide as to the merits of the object to which the money is to be applied before making the appropriation. To make the appropriation first, and then leave others to decide as to the merits of the object to which it may be applied, is to shrink from the performance of one-half, and that to the treasury the most important half of your duty.

Could you appropriate \$10,000,000 for the support of the army, and leave to the Secretary of War, or even to the President and cabinet, the privilege of applying it as he or they should see fit? Possibly you may have the power. But its exercise would dissatisfy the country, and strain, if it did not break the Constitution. It would, to say the least, be a very loose control over the public funds. It would be a still more loose control of them to appropriate \$1,000,000 or \$500,000, or a greater or less sum, and leave a board of commissioners to parcel it out among private claimants as the board should adjudge right. To do such an act would be to invite constant repetitions of the disgraceful Gardiner frauds. I am very confident Congress will commit no such folly.

What then shall we do? After the board has investigated and reported favorably on claims, shall we pass bills to pay them? This brings us just to the point where we now are; for I repeat, it is action, and not investigation, that we want—action, action. The passage of bills, that is what we want. And why is it that we do not act? why is it that we do not pass bills? It is, sir, because we have not confidence, we have not full confidence in the investigations of our committees. And shall we have more confidence, I pray you, in a board of claims? Will we distrust our own committees, and rely with confidence on the board of claims? I think not. When we are called to act, when we are called to pass bills, to make appropriations, we shall have the same difficulty that we now have. Some doubting Thomas will ejaculate those cabalistic words, "I object!" and in a twinkling the bill fades from our view, and the poor claimant is turned away in sorrow.

I want something practical; something that will give the claimants justice; something that will protect the treasury against fraud; keep



the people's money under the control of the people's representatives, and at the same time relieve the Speaker's table from that accumulated and accumulating mass of private business under which it has literally groaned for five-and-twenty years.

The rule which I propose will do this. I have reflected on it maturely, and my confidence is entire that it will be efficient for all the purposes I have indicated.

What does it propose? First, a committee of fifteen, to be styled the General Committee on Claims; and why a committee of fifteen? I have, in my own judgment, fixed a large number, because the functions of the committee will be onerous, varied, and perplexing. No small committee could well discharge the duties which I propose to devolve on this general committee.

What will be the duties of this committee? To exercise a supervisory jurisdiction, in the first place, over all the reports from the other committees touching private claims. To stand as a kind of appellate court, having no original jurisdiction, but authorized and required to review the reports of other committees, and only to ask the action of Congress in case they approve such reports; and, in the second place, to report a bill for the payment of private claimants, the items of which shall in all cases be founded on the approved reports of other committees.

Allow me to illustrate, by supposed cases, the practical workings of this rule, if it shall be adopted. A claim is referred to the Committee on the Post Office and Post Roads; another to the Committee on Public Lands, and another to the Committee on Claims. Each of these committees makes a favorable report. These reports, and the evidence to sustain them, they send to the General Committee on Claims. That committee, after due investigation, approve each one of the reports, and thereupon they insert a separate item in the bill for the payment of private claimants to cover each claim, and then lay the report and evidence before the House to be printed, if the House shall so direct. And so of every other claim. It will be seen that each particular item will be sustained by a separate report, and that report will be supported by the concurrent judgment of two separate committees. The bill thus reported must of necessity go to the Committee of the Whole House, and being here considered, item by item, every member of Congress will have ample opportunity for the fullest and fairest investigation. When the bill is at last reported to the House for final action, each particular item will have passed the ordeal of the three separate committees: First, the present committee of nine; next, the proposed committee of fifteen; and lastly, the Committee of the Whole House. Having thus run the gauntlet, it seems to me no reasonable man could object to a vote by yeas and nays, as to whether the bill should become a law. The advantages which I anticipate are—first, thorough investigation, and therefore entire security to the government; and secondly, certain action, and consequently a hope of justice to claimants.

If Congress can be induced to act at all, it will generally act justly. Congress often does not act because of the anxiety of each member to get his own business forward. In the general scramble for precedence the avenues of legislation are choked up, private bills are neglected, and the rights of private parties disregarded. I desire to change this state of things; put all on the same footing, and this scramble will cease.

Under the rule which I propose, we shall have but one bill instead of many hundred bills. The struggle which is constantly going on here for precedence will cease, because all these rival bills will be merged into one bill. This bill will never fail of being considered and passed. It only remains to determine whether the checks and guards which the rule imposes will be sufficient to protect the treasury. In the first place, you have the examination of the committees as at present organized; their duties, so far as investigation is concerned, remain unchanged. In the second place, we have the proposed committee of fifteen, with no original jurisdiction, but sitting only as a revisory court; it is their duty to weigh the evidence and determine whether it sustains the report; and thirdly, we have the Committee of the Whole House. All these committees must pass affirmatively upon each section of the bill separately, before it is laid before the House, and in the House the rule guaranties to every member the right to demand a separate vote upon any section of the bill to which he may object. Now, it does seem to me that if a bill has passed three committees of this House section by section, and has then run the hazard of a separate vote by sections in the House, no reasonable man ought to object to its becoming a law.

If the House does not choose to adopt this rule, I hope at least we shall do something to relieve private claimants from the crushing and overpowering influence of a single member when pronouncing those potential words, "I object!" "I object!" How often the heedless or captious use of these words has sent honest claimants in sadness and in sorrow from this Hall! Let us snatch from them this unnatural power and restore them to their original modest position in our political vocabulary, and we shall have taken one step at least towards a salutary reform.

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## CUBA.

REMARKS, IN THE HOUSE OF REPRESENTATIVES, JANUARY 3, 1853, ON THE CUBA QUESTION.

MR. BROWN. I do not intend to make an argument in reference to the question introduced by my friend from North Carolina [Mr. Venable]; but in the course of his speech he has taken positions so contrary to those which I believe to be right, that I feel it incumbent upon me, having been for a long time associated with that gentleman upon other questions, to say, at the first possible moment, that I totally dissent from many of the views which he has expressed. If I understood the gentleman, one of his positions was this—and I wish to call his attention to it—that the acquisition of the Island of Cuba, by this country, would result in the instant abolition of the foreign slave trade. I so understood the gentleman. Did I understand him correctly?

MR. VENABLE assented.

MR. BROWN. Did the gentleman mean to employ that as an argument against the acquisition of the Island of Cuba? I agree with him perfectly, that its acquisition would result in the instantaneous abolition

of the foreign slave trade. That is one of the strong reasons why I desire to see it conquered, and why I think the people of the whole country ought to desire it.

Mr. VENABLE. Will the gentleman indulge me for a moment? Does the gentleman suppose that I advocate the foreign slave trade? I am willing that it should be put down, and put down by the treaty power—by the powers which are now employed to put it down. I used the argument in this way—that according to the institutions and circumstances of Cuba, and the want of increase of the African population there, the African slave trade was indispensable to keep up the supply of slave labor, and that being cut off, Cuba would be valueless, unless a supply of slave labor could come from somewhere, and the Southern States could spare anything better in the world than their slave labor.

Mr. BROWN. That does not at all change my view of the gentleman's argument. But the gentleman went on to say further, that the acquisition of the Island of Cuba by the United States would be attended with imminent danger, and would be the signal for the Queen of Spain and the Cortes to issue a decree for emancipating the negroes of the island, and that he for one would never vote to reduce any man to the state of slavery who had enjoyed one moment of legal freedom. I am not disposed, at this time, to combat the idea that the Queen and Cortes might take the course indicated; but I wish to make a pause here, and ask my honorable friend to take this into consideration, how far a decree issued in the midst of a revolution, and intended to circumvent the revolutionists, may be regarded as legal and binding. This decree will not be issued, according to the argument of the gentleman, because it is right in itself; it is not to be based upon any great principle of humanity, nor upon any principle of international law, but as a means of punishing the liberators of Cuba. If so done, will it not be a fraud upon the rights of the revolutionary party?

Mr. VENABLE. Will the gentleman allow me again to put myself right? The gentleman must recollect this was my statement, that the instincts of self-preservation would make it right and proper for the Spanish government, if they were satisfied that the invasion of Cuba was simply on account of its adaptation to slave labor, and to get possession of the slaves, the government of Spain would set them free, just precisely as I would blow up a fortification and destroy a magazine, to keep an opposing general from getting possession of them. This having been done by the constituted authorities, the Queen and the Cortes, they would enjoy regular freedom; and the gentleman knows as well as I do that you never can get a Congress of the United States which will subjugate any man who has enjoyed legal freedom.

Mr. BROWN. The gentleman says now, as I understood him before, that the instinct of self-preservation would prompt the Spanish authorities to this course. What self-preservation? Would the island be any more preserved to Spain by such an act? Would her possessions, at the close of the revolution, be larger because of such a decree? Would the gems in her diadem be more valuable after such a decree than before? Would it not be a naked fraud upon the rights of those who are conducting the revolution? Mark you, I am not declaring that I would vote to reduce any man to slavery who had once enjoyed a moment of freedom. But can freedom be given by such means? That is the ques-

tion; and I call the gentleman's attention back to that point. It is one worthy of consideration. I hope the gentleman will consider it before he throws before the country the unqualified remark that the Queen and Cortes could thus at a single stroke set free all the negroes on the island. Like the gentleman, I never will vote to reduce a free man to bondage.

Mr. VENABLE. The gentleman seems to have misapprehended me again. If the United States become a party to the revolution, then they are buccaneers; they are wrong, and no one sustains them. If individuals of the United States go and produce revolution, they are buccaneers, and it would be a struggle in Cuba, to which the United States would be no party; and Spain, being satisfied that the revolution was produced for the purpose of annexing to the United States territory wrongfully wrested from her, might make that territory valueless to the United States, and she would do it.

Mr. BROWN. I am not going to discuss with the honorable gentleman how far those who engage in such an enterprise as the liberation of Cuba would become buccaneers. The gentleman and myself would differ very widely upon that point. I have already differed from one high in authority on the same point. I maintain that the Creoles in the Island of Cuba, if they are oppressed, have the same right to take up arms in defence of that liberty which they inherited from the Almighty that the people of the colonies had. I maintain, further, that the people of the United States have the same right to go in aid of the Creole struggling for liberty that the French had to come here and aid us when we took up arms against the British Crown. Our forefathers were not buccaneers, nor were the French who came to aid us in our glorious struggle for freedom buccaneers. If our people choose to go to Cuba, they would not thereby become pirates or buccaneers any more, I repeat, than the French were when they came in aid of our cause, or than we were when our people aided Greece, Poland, the South American States, and Texas.

Mr. VENABLE. The term buccaneers I did not use in any offensive manner. I expressly guarded my remark in this way: that those individuals who chose to go there and seek martyrdom, ought to get it, and their quantum of honor; but this government ought not to come in conflict with the rights of any other country.

Mr. BROWN. My friend does not draw a proper distinction between an act of the government and the acts of individuals. I do not say that the United States should wage war upon Spain, or join the liberators of Cuba. I am advocating no such policy. I will probably go as far as my distinguished friend from North Carolina, in resisting any such policy. I am speaking of individual assistance—that which France gave us in aid of our cause; that which we gave Greece, the South American Republics, and Texas; and I maintain that such individual aid does not make those who give it, buccaneers, outlaws, or pirates. Nor do such individual acts attain the government from which the individuals come. If it were otherwise, we might even now be seized and executed for pirating against Spain in South America, and against Mexico in Texas.

But my friend in North Carolina has advanced another argument which is yet more extraordinary, extraordinary I mean as coming from him. When I saw my friend standing on the other side of the House, filibustering, as I thought, against the United States, surrounded, as he

was, by admiring Whigs, I did not know what to think. It seemed to me he had taken formal leave of his old State-Rights friends, and gone over to the Whigs. He has got into strange company, certainly, and advances very strange sentiments. Why, says the gentleman, these blacks upon the Island of Cuba will be emancipated by the authority of the Spanish government, and how are you to make it slave territory again? I am opposed, says he, to carrying slaves from the slaveholding states of the Union to this island, or anywhere else, and I am opposed to the extension of the area of slavery. When the gentleman and myself stood hand to hand, and shoulder to shoulder, battling for what we conceived to be our rights upon the shores of the Pacific, what were we battling for, but for a country to which southern slavery could be carried? When we resisted the surrounding of the Southern States by a cordon of free states, it was, sir, that slavery might not be circumscribed, that it should have room to expand. We desired California kept in a condition that the slaves of Southern States could be carried there. I confess it here, as I confessed it when the matter was under discussion, and if I go for the acquisition of Cuba, or for any other territory in the South, let it be distinctly understood now, and through all time, that I go for it because I want an outlet for slavery. I am for extending the area of slavery. In such extension, I see safety to the South, and no harm to the rest of the Union. There was a day when slavery existed in Rhode Island. It left there to go south. I know she boasts that she emancipated her slaves, but Rhode Island and Massachusetts emancipated the remnant when the great body of them had gone south. New York and Pennsylvania were slaveholding states, but they sent their slaves South and sold them, and then boasted of making their state free. Virginia, Maryland, and the border states are now undergoing the same process. Slavery is leaving these states, and going further south. The slave population is multiplying with wonderful rapidity. We have now three and a half millions of slaves, and in thirty years we shall have seven or eight millions. When they have become profitless or troublesome, we, too, want a South to which we can send them. We want it, we cannot do without it, and we mean to have it.

When you have forced into the cotton-growing states of this Union, eight millions of slaves, and have left them no outlet, you will have that sort of disaster which you would have if you dammed up the mouth of the Mississippi river. There must be an outlet for them.

Mr. ALLISON (interrupting). For the honor of the state which I in part represent, I would have it go upon the record, that Pennsylvania abolished slavery before she had acquired her independence—at the earliest moment that she could do so, indeed before she had the power fairly.

Mr. BROWN. I know very well that they had a prospective emancipation law in Pennsylvania; but I also know that, within the last generation, slavery existed in that state. I happen to be the owner of persons now, whose immediate ancestors were once slaves in Pennsylvania.

Mr. VENABLE. Will my friend from Mississippi permit me to make a single remark?

Mr. BROWN. Oh, certainly.

Mr. VENABLE. I do not wish to speak further upon this subject; but I cannot sit by and hear the positions I have taken misstated, as my

friend has misstated them, unintentionally no doubt. He says that I am opposed to extending the area of slavery. Why, sir, I must have expressed myself very obscurely. I am against *limiting* the area of slavery, and the consequence, as I apprehend, of the annexation of Cuba will be the emancipation of the slaves in that island—making it free territory.

My object is to prevent the contraction, and not to prevent the expansion, of the area of slavery. I must, indeed, have expressed myself very obscurely, or my friend could not have so misunderstood me. My proposition was this: that in case of a revolution in Cuba, if the Spanish government were satisfied that individuals from the United States, whether called buccaneers or invaders—I will call them by any name suitable and respectful—were producing that revolution, the ultimate end of which was the annexation of Cuba to the United States, and if the Spanish government were also satisfied that that end was to be effected because of the profit of slave labor in Cuba, they would be driven to that experiment which would be almost fatal to us, viz: the contraction of the area of slave territory, by making Cuba free territory, and thereby reducing the amount of sympathy in the world towards us and our institutions, making us almost the only slaveholding power in the world. That was the proposition which I made. I am in favor of extending the area of slavery by any just means in our power; but I take occasion to say, that no party ties, no party affiliations, no “Young America,” or Old America, no persons in power or out of power, can induce me to aid in extending it, if it is to be done by oppression or wrong, or by the violation of treaty stipulations.

Mr. POLK (interrupting). I desire to suggest to the gentleman from Mississippi [Mr. Brown], that, as it seems the gentleman from North Carolina [Mr. Venable] has got into a state of circumstances he had no idea of upon this subject, he should allow that gentleman the balance of his hour to explain out. [Laughter.]

The CHAIRMAN. The gentleman from Mississippi has yielded the floor to the gentleman from North Carolina. The gentleman from Tennessee is not in order.

Mr. VENABLE. I suppose so, and it would therefore be out of order for me to make any reply to the gentleman's suggestion. [Laughter.] I say again, that neither party ties, nor party affiliations, nor the opinions of friends from whom I should part with reluctance, could induce me to support a policy marked by the violation of treaty stipulations, or marked with injustice and wrong towards any of the nations of the earth.

Mr. BROWN. Why, Mr. Chairman, my friend from North Carolina was never more mistaken in his life, than when he supposed it possible for his old State-Rights friends to counsel or advocate any violation of treaty stipulations, or of good faith with Spain or with any other country. I hold that to be quite out of the question.

Mr. STEVENS, of Pennsylvania. Will the gentleman allow me to ask him one question?

Mr. BROWN. Make it very brief, then.

Mr. STEVENS. I will. I understood the gentleman to say that slavery existed in Pennsylvania, and that he owned slaves that came from that state. Did I understand him rightly?

Mr. BROWN. You did.

Mr. STEVENS. I should like to know at what period those slaves were brought from Pennsylvania?

Mr. BROWN. That is a question which I am not able to answer.

Mr. STEVENS. By the law of 1780, slavery was abolished in Pennsylvania, allowing those then in bondage to remain so during their lives. Some of those even yet survive. That is all the slavery that has existed in Pennsylvania since 1780, and even that was abolished in 1847. But if the gentleman holds any slaves who are the descendants of those that were brought from Pennsylvania since 1780, I beg leave to inform him that they were carried away contrary to law, and are free; and to suggest to him whether it would not be well to inquire whether he is not ignorantly holding freemen in bondage. [Laughter.]

Mr. BROWN. I usually examine into the question of title before I acquire property. Let me get back to the point where I left my friend from North Carolina. He now says, and I am glad to hear it, that he is in favor of extending the area of slavery. How is this to be done if we acquire no more territory? If slavery is to be extended at all, Cuba promises a fairer field than any other country. This the gentleman will not take. By a very summary process, he has disposed of Spanish slavery there, and he tells us he will not consent to see its place supplied by American slavery. It seems to me, therefore, that my friend's declaration just now made, is in conflict with the positions taken in his speech.

But, Mr. Chairman, I pass from the details to the general character of my friend's speech. He seemed to me to be making an argument, the whole drift of which was, as the gentleman from Georgia [Mr. Stephens] has well characterized it, in opposition to the acquisition of Cuba under any circumstances. Now, lest I may be misunderstood, I am perfectly free to say that I am not going to second any filibustering expedition against Cuba or any other part of the world. But, sir, I am free to say that I want Cuba, and I am willing and anxious that all the world should know that I want it. This ought, in my judgment, to become our national position. Not that we will take it, but that we want it, and that we mean to have it if Spain parts with it. We ought to hold out this idea to all the nations of the earth, and if needs be, enforce it against all the nations of the earth. We should make no arguments against its acquisition.

I am for no filibustering, in the ordinary acceptance of that term. But I will tell you what I am for. I am for this: I am for demanding and exacting, at all times, and under all circumstances, a proper respect for the flag of this country, and if, in doing that, we should become involved in a war with Spain, or with any other country, I am for fighting it out; and if, in the general settlement, we can get nothing but land, I am willing to take land. [Laughter.]

Mr. VENABLE. So am I.

Mr. BROWN. That far, then, my old friend and myself agree.

This, sir, suggests a point to which I wish to call the gentleman's attention. I want to know whether we agree about that also. I think the President of the United States, in the late transactions at Havana, in which the steamer Crescent City was involved, was entirely wrong. I am free to admit to the House, and before the world, that Spain, or the Spanish authorities upon the Island of Cuba, have the same right

to exclude an obnoxious individual from the port of Havana that the authorities of Charleston have to exclude obnoxious individuals from that port. But I wish my friend, and those who agree with him, to mark this distinction: South Carolina, nor Charleston, by the authority of South Carolina, has ever said to a British ship, "You shall not enter this port, because you bear a black man upon your deck;" her laws are not directed against the flag of Great Britain, but against the obnoxious individuals who chance to be on board her ships. I defend that policy in South Carolina, and to that extent I will defend it in the authorities of Spain.

But, sir, Spanish authority went beyond this. If the Captain-General had simply taken the ground that the obnoxious Mr. Smith should not leave the ship's deck, or that he should even be taken from the ship's deck and confined during the time the vessel remained in Spanish waters before the city of Havana, I do not know, unless there had been something offensive in the manner of the transaction, that I should have objected to it upon broad national grounds; as at present advised, I should have sustained it. But when the authorities went beyond that, and said that an American ship, bearing the American flag, having on board an American crew, and American citizens as passengers, and carrying the American mails, should not enter the waters of Cuba because the obnoxious Mr. Smith chanced to be on board of her, I think they violated good faith, violated the treaty which exists between the two countries—a treaty of amity; a treaty that authorized the ships of the one to enter the ports of the other on terms of equality with the ships of the most favored nations. That is my judgment; and Spain, by her constituted authorities, offered an insult to our flag by excluding from her port a ship that bore it, and for this offence, I trust the incoming President will even yet demand satisfaction;—that he will not permit it to be blurred over as it has been by the retiring President.

I feel that there is something due to the dignity of this government in a case like this, beyond what we have got. When her flag is excluded, her citizens driven out of a friendly port, her mail is denied admission, and all simply because the Captain-General—a mere tool of her Catholic Majesty—chanced to think that Mr. Smith has done something or thought something derogatory to Spain, we ought to have something more than we have yet had. It was a good time to speak boldly and act firmly. Instead of pocketing the insult, as I think we have done, we ought to have resented it, and resented it properly. If war had come, why let it come; if Cuba was acquired, why let it be acquired; and if the people of North Carolina wanted to carry their slaves there, let them carry them there. If the Spanish authorities thought proper to issue a decree emancipating the negroes on the island, and it was deemed to have been done in derogation of our rights as a party to the conflict, it would be a matter for our determination whether we would respect such a decree. All this, however, is very far from the main point.

Mr. WILLIAMS (interrupting). I should like to ask the gentleman a single question. The gentleman speaks of the insult offered to our flag. What kind of satisfaction does he propose that the incoming administration shall demand? Would anything short of taking the Island of Cuba satisfy him?

Mr. BROWN. I should prefer that sort of satisfaction to any other.



[Laughter.] But, sir, if that sort of satisfaction was given which is ordinarily demanded and given on similar occasions, government ought to accept it; and if it did not, I would repudiate the action of the government. The Captain-General who denied admission to the Crescent City into the port of Havana, ought to have been recalled by Spain on the demand of this government, or some other atonement for the offence ought to have been demanded. The President ought not to have rested satisfied until he got it. That is my judgment. If Spain was obstinate, and offered us nothing but war, let the consequences be upon her own head. Let me not be misunderstood. I say emphatically and distinctly that I do not desire to see our government seeking for war, or, as the common expression is, "picking a quarrel" with Spain, or any other government. I prefer peace with that government and with all governments.

One sentiment which the gentleman from North Carolina [Mr. Venable] advanced, I endorse most fully. So long as Spain holds the Island of Cuba, and holds it securely, I am content that she shall keep it. But I will make no speech against its acquisition. I will make no argument against its acquisition. I would have Spain and all the world to understand distinctly that we always desire the island; and that if Spain ever parts with it, we mean to have it, peaceably if we can, forcibly if we must. I would not encourage her to look to other quarters for a purchaser or an owner, in case she were disposed to part with the island. I would not encourage others to hope that they might acquire it on any terms short of absolute force. Hence I say, I would make no arguments against its acquisition. Arguments should be to prepare the people of this country, and of all countries, for its acquisition by the United States. I would prepare the minds of our people to make sacrifices for its acquisition—sacrifices in money, and, if necessary, sacrifices of another character.

The gentleman from North Carolina has made one of the strongest arguments I ever heard against the acquisition of this island, under any circumstances. This was indeed too bad. Sir, what must be the effect of such a speech upon the public mind? If it has any effect at all—and that it must have an effect, his high position before the House and the country assures us—it must be to cause the public mind to pause, to hesitate, to doubt the propriety of the acquisition. He says it would throw the country into a commotion; that it would disturb the public mind; that conflicts between the North and South would be revived. What must be the effect of such declarations? Why, it must be to induce every man—at heart a patriot, every conservative man—in the country, who trusts to these declarations, to resist the acquisition of the island at all hazards, and against all persuasion. No man trusting the soundness of the gentleman's logic, and filled with his evil forebodings, but would resist the acquisition as he would resist a pestilence. The gentleman says it will prove a very Pandora's box.

Mr. VENABLE. Would my friend be willing to acquire Canada?

Mr. BROWN. I certainly would not be willing to make as great sacrifices to acquire Canada, as I would to acquire Cuba; but if there were a prospect of getting Canada, I am not prepared to say that I would resist the acquisition, and especially if our northern brethren showed themselves liberal in allowing us to get a little more land for the South. But

as my friend from North Carolina is of a kindly disposition, I will ask him the same question: would he go for acquiring Canada?

Mr. VENABLE. I would not,

Mr. BROWN. I said when I rose, that I did not design to make a speech upon this subject. The gentleman from North Carolina had expressed opinions so foreign to my own, and so contrary to what I deem to be the interest of the South, and of the whole country, I felt it due to myself, considering my party relations with that gentleman, to say at once, that I do not concur in the views he expressed.

Mr. VENABLE. Will my friend permit me to ask one additional question?

Mr. BROWN. Certainly.

Mr. VENABLE. I desire to know whether under any circumstances, the gentleman would be willing to annex Cuba as a free state, if slavery did not exist there?

Mr. BROWN. I do not think that I would readily consent to it, and the gentleman might have gathered as much from my remarks before. I said I wanted to acquire this territory as an outlet for slavery, as a means of extending the area of slavery. I will do nothing under a disguise. I will practise no fraud or deception upon anybody, personally or politically. I do not say that I would not be in favor of the annexation of Cuba under any circumstances; but I confess that a vast amount of my zeal and enthusiasm would ooze out very suddenly, if I knew it was coming to us as a free state. I want it; and I want it as a slave state, and as an outlet for slavery. In a military, and in a commercial point of view, its acquisition would be vastly desirable, even as a free state. But I will not longer detain the committee.

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## NEBRASKA AND KANSAS.

In the Senate of the United States, February 24, 1854, the Senate having under consideration the bill to organize the territories of Nebraska and Kansas, Mr. Brown said:—

MR. PRESIDENT: It has been my determination, from the beginning of this discussion, not to participate in it to any considerable extent, and I am not now about to depart from that determination. I will occupy the floor but a few minutes; and senators who desire to speak may be assured that they will have an opportunity of doing so this evening, if they choose.

There are one or two points in the bill on which I will present my views briefly; and there are two or three topics involved incidentally in the debate to which I will address a remark or two, and then I shall have done.

The bill proposes to annul, or, in stronger phrase, to repeal, the Missouri compromise; and to this extent it meets my cordial approbation.

I am not the advocate of this repeal because of any confident expectation that slavery is ever to find a resting place in these territories.

Slavery may or may not go there. The inclination of my mind is that it never will. But, this is a topic not to be discussed here, and therefore I pass it by without further remark.

The Missouri compromise ought to be annulled or repealed, because it has been, from the beginning, without authority under the Constitution. For more than thirty years this legislation has stood upon the statute-book, a blot upon its justice, and a mockery of the Constitution which it violates.

All the arguments against the constitutionality of the Wilmot proviso stand with equal force against the constitutionality of the Missouri compromise. It is needless for me to argue that, if Congress had no power under the Constitution to exclude slavery from the territories acquired from Mexico, it had none to exclude it from those acquired from France; or, to state the proposition a little different, if Congress has no power to establish an arbitrary line and assert its constitutional power over slavery on one side of it, it has none to establish it and assert its power on the other side.

If Congress had the power in 1820 to exclude slavery from all the territory north of  $36^{\circ} 30'$ , it had the same power in 1850 to exclude it from all the territory south of that line. And, *per contra*, if it did not have the power to exclude it south of the line in 1850, then it did not have the power in 1820 to exclude it north of the line.

The venerable senator from Michigan [Mr. Cass] deserves great credit for his masterly effort to correct a wide-spread, and, at the North, almost universal error, on this point. Thousands I know there are who date their convictions on this subject from the delivery of the great speech of that senator, in which he reviewed with so much power the arguments to sustain the proviso. I do the senator no more than justice, when I say his arguments have never been answered—like fine gold, they have grown brighter as they have been rubbed.

As a friend of the Constitution, I thank the senator for his efforts in this behalf. He proved the unconstitutionality of the proviso; and in doing that, he established beyond dispute the unconstitutionality of the Missouri compromise. For, I repeat, Congress had no more power to exclude slavery north of  $36^{\circ} 30'$  in 1820 than it had to exclude it south of that line in 1850.

But it has been said that the Missouri compromise is a contract—the eloquent senator from Massachusetts used the stronger term—he called it a compact; and on this ground, he and others have undertaken to defend it. It was neither the one thing nor the other. It was not a contract, nor was it a compact. If it was a contract, who were the parties to it? To make a valid contract, there must be parties able to contract, willing to contract, and they must actually have contracted. I must go further, and say, there must be something given on one side, and something received on the other. In all, every one of these essentials, the transaction before us is deficient. I should undertake to maintain by irrefragable proof, if I had engaged to discuss this question thoroughly, first, that there were no contracting parties; second; that at least one of those whom you claim as a party had no will to contract, and did not contract; and third, that no consideration passed from one party to the other, whereby the contract, if made, was rendered binding.

Shall it be contended, further, that Missouri was a party to this pre-

tended contract? It has already been said Missouri was admitted into the Union as a slave state, on condition that slavery should be for ever prohibited north of  $36^{\circ} 30'$ ; and the senator from Massachusetts [Mr. Sumner] declared with great bitterness that the South, with the consideration in her pocket, now comes forward to repudiate the contract. Sir, had not Missouri the right, the constitutional right, to come into the Union with or without slavery, as she, in her own written constitution, should prescribe? I have thought that even rampant fanaticism did not deny this. Then how could you, in derogation of her rights under the Constitution, demand of Missouri a price for her admission into the Union?

But, sir, allowing that Missouri undertook to buy her way into the Union—an admission that can only be made for the sake of the argument—and that for this purpose she bargained for the exclusion of slavery in perpetuity from all territory north of  $36^{\circ} 30'$ , what does it amount to? Nothing; absolutely nothing. Missouri had jurisdiction within her limits, and not one inch beyond. She had no right to buy an advantage or a privilege for herself by surrendering that which did not belong to her. As well might the tenant or rightful owner of a house bargain with a robber, that if he would let him alone, he might plunder his neighbors with impunity. If he bought his own peace, well; but certainly he could impose no obligation on his neighbors to submit to the plundering.

If we put this transaction on the basis of contract between the North and the South, it is not more capable of defence. Here you have to create parties, ideal parties, before you commence the bargain. To say this is a contract between the North and the South, is to set up in the imagination things that do not exist in fact. There is no separate North, no separate South—has not been, and I hope never will be. We are but one, and it takes two to make a contract. If we had a Northern Union and a Southern Union, the two might contract. But, as we are but one, the first great essential to a binding contract is wanting, to wit: parties capable of contracting.

I do not know that I can better conclude what I have to say on this point than by introducing an extract from a speech delivered by myself on this subject in the House, June 8, 1848. It will be found at page 645, Appendix to the Congressional Globe of that year. I said:—

“We shall be told, that by the act of March 6, 1820, and the several succeeding acts admitting Missouri into the Union, commonly called the Missouri compromise, the power in Congress to a limited extent, to exclude slavery from a territory, was conceded. The argument is neither just nor sound; but its introduction here gives me an opportunity, which I eagerly embrace, of expressing my opinions of that compromise. It has been the theme of many eloquent harangues; and of all the thousand orators who have thrown garlands on the brow of its great author, or strewn his pathway with richest flowers, none have apostrophized more eloquently than those whose theme has been this far-famed Missouri compromise.”

You will observe that in this speech I fell into a very common error, or, at least, what is now claimed to be an error, of attributing the authorship of the Missouri compromise to Mr. Clay. I proceeded:—

“But, notwithstanding this, it stands out ‘a fungus, an excrescence, a political monstrosity.’ It was the first, greatest, and most fatal error in our legislation on the subject of slavery. It violated at once the rights of one-half the Union, and flagrantly outraged the Federal Constitution. It undertook to abrogate the constitutional privi-

leges of one-half of the states, and, without any adequate or sufficient consideration, to surrender the rights of every slaveholder in the Union. The compromise has been called a contract. But a contract, to be binding, must be mutual in its obligations; there must be something given on one side, and something received on the other. By this compromise—this misnamed contract—the slave states gave up their right of settlement north of the parallel  $36^{\circ} 30'$ ; but the non-slaveholding states did not surrender their right to settle south of that line. The free states have all the rights they ever had. The South gave up everything, and received nothing. North of  $36^{\circ} 30'$  no slaveholder dare go with his slaves; south every northern man may settle with whatever chattels he possesses. The compromise is wanting in all the elements of mutuality which render a compact binding, and is therefore void. This Thirtieth Congress has no right to surrender, by gift or barter, the political rights of one-half of the Confederacy, or even one state of the Union; and yet this Congress has all the constitutional powers that belonged to the Sixteenth Congress, which enacted the compromise."

I pass from this subject to the consideration of the amendment offered by the mover of the bill [Mr. Douglas], and now, by the vote of the Senate, become a part of the bill itself. The phraseology is not such as I would have chosen, and yet, having scrutinized it, I am willing to sanction it; indeed, I have sanctioned it by my vote. If it had suited the purposes of others to allow it to stand without comment, it would have suited mine. But I will not sit still, and allow an interpretation to be given to words that have received the sanction of my vote, altogether at variance with what I intended when I gave the vote. From day to day we have heard senators, in terms more or less distinct, declare, without limitation, that this bill gives the people of the territories the right to exclude slavery. In plain English, that it recognises the doctrine of "squatter sovereignty," as this new theory has been termed. I do not think so, and if I did, I would withhold from the bill the sanction of my vote. I utterly deny and repudiate this whole doctrine of squatter sovereignty. But, before I proceed to an examination of it, I must pause to consider another feature embodied in the amendment proposed by the honorable senator, the mover of this bill.

The amendment declares that the act of 1820, commonly called the Missouri compromise, is inconsistent with the legislation of 1850, known as the compromise of that year; and is, therefore, declared inoperative and void. If I did not know the astuteness of the senator who drew up this amendment [Mr. Douglas], and how unlikely he would be to run into such an error, I should think there was an inaccuracy in deducing the conclusion that the legislation of 1820, in reference to one territory, is inoperative and void, because it is inconsistent with the legislation of 1850, in reference to another territory. It is very certain that the legislation of 1820, as regards the territory north of  $36^{\circ} 30'$ , was inconsistent with the same legislation, as regards the territory south, and yet both stood, and have continued to stand, for thirty years and more. It is equally certain, that if Congress has the power to exclude slavery from the territories, and the power is simply permissive, and not mandatory (as it certainly is not), under the Constitution, then Congress may exercise it in one place, and forbear its exercise in another; and the failure to exercise it in Nebraska, for example, would not render inoperative and void its exercise in Kansas.

If the act of 1820, that excluded slavery from all the territory north of  $36^{\circ} 30'$ , was constitutional, it may stand, and it is logically inaccurate to say that it becomes inoperative and void simply because the legislation

of 1850 failed to exclude slavery south of that line. But if, on the other hand, the act of 1820 was unconstitutional, and those of 1850 brought back the government to its true constitutional position, then it would be logically correct to say that the act of 1820 (being unconstitutional) is inconsistent with the acts of 1850 (that have restored the government to its true constitutional position), and, therefore, the act of 1820 is inoperative and void. Inoperative and void, not because of its admitting or excluding slavery, but inoperative and void because it is inconsistent with the restoration of the government to its rightful constitutional position.

I take it for granted, Mr. President, that the able and learned senator [Mr. Douglas] meant what the language of his amendment implies, to wit: that the legislation of 1850 settled the great constitutional principle that Congress could not exclude slavery from a territory; and that inasmuch as the act of 1820 undertook to do that thing, it is in conflict with a great constitutional principle, and therefore, for that reason, it is inoperative and void.

I may be mistaken in my reasoning—I may be mistaken in what is meant by the mover of this amendment. But there is one thing in which I am not mistaken—the amendment declares the Missouri compromise inoperative and void. This is as it should be. It squares exactly with my notions long since expressed of the constitutional obligations of the government, and I will not quarrel with a good act, even though a bad reason may be given for its performance.

I will not detain the Senate on points of so little practical importance as this. The conclusion at which we arrive covers the practical issue, effects the practical result, and whether we reach that conclusion by a sound course of reasoning is a thing of little consequence to our constituents. I voted for the amendment, believing that the premises justified the conclusions. But, if I had thought otherwise, I should have voted as I did. The declaration that the Missouri compromise is henceforth to become inoperative and void, commends the measure to my warm and cordial support.

I pass to the consideration of another point, and in doing so I respectfully invoke the attention of the distinguished senator from Michigan [Mr. Cass]. That senator is the acknowledged author of the doctrine known in common political parlance as squatter sovereignty. From this doctrine I have always dissented, and I dissent from it to-day. Accustomed, as I have long been, to regard with reverence whatever emanates from that distinguished and venerable senator, and feeling, at all times, a painful reluctance to assume a position at variance with him, I have, nevertheless, found myself constrained, after mature investigation, to conclude that on this point he is wrong.

From what source, let me ask the senator, does he derive the power, or the right of the people of a territory, to exclude slavery? Congress does not confer the power—that is certain. The senator has made more arguments—and better ones—than any living statesman to prove that Congress has no right or power, under the Constitution, to exclude slavery from a territory; and I shall not insult the good sense of the Senate, or of the country, by proving, that if Congress does not itself possess this power, it cannot confer it on another. Congress cannot give what it has not got. Congress cannot reverse the whole order of

nature, and make the creature greater than the creator. When the senator proved that Congress had no power over slavery in the territories, he proved, necessarily, that Congress could not confer this power on a territorial legislature—a legislature which is, at best, but a thing of our creation—nor yet upon the people of a territory; for, after all, these people have no existence as a political organization but by our act.

If the power is not conferred by Congress, whence do you derive it? The senator from Michigan has left us in no doubt as to the quarter from which he derives it. On a former occasion, and in a speech not now before me, but which I have in my mind's eye, the senator said he derived the power from Almighty God.

Mr. CASS. I do not wish to interrupt the senator at all, because it is a matter of no sort of consequence, but I wish to say to him that I did not derive that power from Almighty God. I was asked whence I derived the power of government in the people? and I answered that the right of government, not the right to exclude slavery, was derived from Almighty God.

Mr. BROWN. I suppose when the senator said the right of government, without imposing a limitation, he meant, of course, to include the right to exclude slavery?

Mr. CASS. Of course.

Mr. BROWN. I so understood the senator. I understood him as deriving the power of self-government for the people directly from Heaven; and as the senator imposed no limitation or restriction on the power, I inferred, of course, that he meant to include the right over slavery, and the senator says I was correct. I was justified, therefore, in saying that the senator had derived this power from God. Not this single power, and it alone, but this along with other powers.

Now, sir, if this be so, the conduct of this government has been most singular; and if the senator will allow me, I will say, with the most perfect respect, that his own personal conduct needs explanation. If I am not mistaken in the antecedents of the senator, some sixteen or twenty years of his now protracted and honorable life have been spent in the government of one of these territories. He was commissioned to do so, not by Heaven, but by the President of the United States. The people whom he governed with so much ability, and with such acknowledged advantage to them, were never consulted as to whether he should be their governor. The President commissioned him, and that was the end of it. All the people had to do was to receive him and to respect him as their governor. When the senator comes to reply, I shall be glad to learn from him how he justifies himself in taking a man's commission to rule over a people who have authority direct from God himself to govern themselves? It seems to me, without explanation, that the senator has stood, according to his own theory, very much like an usurper; and if I had not the greatest possible veneration and respect for the senator, I would say an usurper who had impiously interposed to wrest from a people the greatest and best gift of Heaven—the right of self-government.

If, as is contended, the people of a territory are gifted from Heaven with the right of self-government, by what authority do you habitually send men to rule over them? You appoint their governors, and other executive officers, and remove them at pleasure. You appoint judges to expound their laws, and even these are not exempt from the power of re-

moval. True, you allow them, as a matter of special grace, to elect members of their legislative council. But then, to show the omnipotence of your power, you require them to send up their laws for approval here, and none are binding until approved by Congress. This very bill now under discussion authorizes the President to appoint governors, secretaries, judges, marshals, &c., for these territories; and it is very explicit in providing that all laws passed by the territorial legislature shall undergo the revision of Congress before they are binding. It does seem to me, Mr. President, if these people have been specially commissioned from Heaven to govern themselves, we are guilty of an impious usurpation, and become the rankest despots, when we exercise authority like this. I shall be glad to know of the senator how we are to justify ourselves in thus assuming and exercising control over a people whom God has authorized to govern themselves? For be it remembered, the senator has asserted that the people had the right of self-government unlimited and complete; and when I so stated his position, as in his judgment to induce the impression, that he had asserted their power over slavery alone, he corrected me, and said his assertion was the right of self-government—government as to everything; slavery, of course, included.

What I contend for is, that if the people have the right of self-government, as contended for by the senator from Michigan, then you have no right to appoint officers to rule over them, nor exact that they shall send up their laws for your approval. And if they have not the sovereignty which entitles them to appoint their own officers, and to pass their own laws, independent of your supervision and dictation, then they have not that higher degree of sovereignty which entitles them to say what shall, and what shall not be property in a territory inhabited by them, and belonging to the states of this Union.

Whatever the senator's opinions may be, and I do not question his sincerity, the practical results of his action are these: The people, with all their Heaven-born sovereignty, have no right of self-government—of free and uncontrolled self-government—until they come to slavery, and then their power is as boundless as the universe, and as unlimited as God can make it. You appoint their officers without their approval, and remove them without their consent. You exercise the utmost vigilance over their legislation until it comes to slavery, and then you grant them the largest liberty. Why is this? Either it proceeds from a timidity that shrinks from a manly responsibility on this subject, which I cannot suspect, and therefore will not charge; or else from a conviction that slavery is an institution accursed of Heaven; and that while your love for the Union will not allow you to stamp on it the seal of Heaven's vengeance, you will withdraw from it all protection, and leave it to the tender mercies of all whose passions or prejudices may lead them to make war upon it.

Sir, I have no fellowship with that sickly sentimentality that speaks of slavery as a great moral evil, and is constantly praying for some safe and peaceful mode of getting rid of it. I believe that slavery is of divine origin, and that it is a great moral, social, and political blessing—a blessing to the slave, and a blessing to the master. I am not going to elaborate this idea; it is of itself a theme for half a dozen speeches. But I undertake to say, that nowhere, in all Christendom, is there a higher degree of morality than in the slaveholding states. In this



respect the slaveholding states challenge a comparison with their boastful sisters of freedom. I risk nothing in saying that slavery operates as a check upon crime. I will tell you why. It equalizes white men, puts them on a level with one another, and represses thereby many of the evil passions which rise up and drive men to madness in communities where white men are not equal.

Nowhere in this broad Union but in the slaveholding states is there a living, breathing exemplification of the beautiful sentiment, that all men are equal. In the South all men are equal. I mean, of course, white men; negroes are not men, within the meaning of the Declaration. If they were, Madison, and Jefferson, and Washington, all of whom lived and died slaveholders, never could have made it, for they never regarded negroes as their equals, in any respect. But men, white men, the kind of men spoken of in the Declaration of Independence, are equal in the South, and they are so nowhere else. It is slavery that makes them so.

In the South we have but one standard of social merit, and that is integrity. Poverty is no crime, and labor is honorable. The poorest laborer, if he has preserved an unsullied reputation, is on a social level with all his fellows. The wives and daughters of our mechanics and the laboring men stand not an inch lower in the social scale than the wives and daughters of our governors, secretaries, and judges. It is not always so with you, and I will tell you why. The line that separates menial from honorable labor with you is not marked by a caste or distinct color, as it is with us. In the South, as in the North, all the mechanic arts are treated as honorable, and they are not the less so because sometimes practised by blacks. It may surprise our northern friends, but all the South will attest its truth, that nothing is more common in the South than to see the master and his slave working together at the same trade. And the man who would breathe a suspicion that the master had sunk one hair's breadth in the social scale in consequence of this kind of contact would, by general consent, be written down an ass.

But there are certain menial employments which belong exclusively to the negro—these furnish a field of labor that the white man never invades, or if he does, he is not tempted there by gain. Why, sir, it would take you longer to find a white man, in my state, who would hire himself out as a boot-black, or a white woman who would go to service as a chambermaid, than it took Captain Cook to sail around the world. For myself, in thirty years, I have never found a single one.

Would any man take his boot-black, would any lady take her chambermaid into companionship? We do not in the South, for they are always negroes; mechanics, overseers, and honest laborers, of every kind, are taken into companionship, and treated, in all respects, as equals. It is their right, and no one thinks of denying it.

I do not say that it is disreputable for white men and white women to go out to service and to perform even these lower grades of labor. But I say that with you, as with us, they lose their position in the social scale when they do it. With you it must be done by whites, and therefore the whites lose position; with us this menial labor is performed by negroes, and the equality among the whites is preserved.

If the senator from Massachusetts [Mr. Sumner] wants to see a specimen of that equality spoken of by Jefferson, in the Declaration of Independence, and so much lauded by himself the other day, let me

advise him to come to Mississippi. We will there show him what he has never seen in Massachusetts, and what he never will see in a free state—a whole community standing on a perfect level, and not one of them the tithe of a hair's breadth higher in the social scale than another. This is equality; this is social equality—the equality to which all men were born, and which no man loses in a slave state but by dishonesty or immorality of some sort.

I will not pause to consider the black man's condition in this country as contrasted with that of his fellows in his native home. There is enough in it to awaken our thoughts, and cause us seriously to inquire whether it is not possible, and even probable, that God, in his providence, has brought the Africans from amidst the barbarism and cannibalism of their native jungle, and placed their feet on these happy shores, where, under the benign influence of our laws, they may learn morality and Christianity; and, in Heaven's own good time, return to lift the pall of darkness and death that has rested so long on their wretched country?

But enough of this. I did not intend to have spoken of the negro, or of his influence on the social condition of our country. We who own slaves are satisfied with our condition in every respect; and those who do not own them, we may hope, will in no way be made accountable for the sin we commit in holding them in bondage.

Asking pardon for this digression, I come back, Mr. President, to the subject under discussion: The right of the people of a territory to exclude slavery; or, in other words, to declare that not to be property in a territory belonging to all the states, which is recognised as property by the United States, and held as property in fifteen states of this Union. It must be admitted that the power which makes such a declaration, and maintains it, is invested with the very highest attributes of sovereignty—a sovereignty which the government has not dared to exercise in the territories acquired from Mexico.

The senator from Michigan, if I understand him, asserts the sovereignty of the people in the territories over property in the territories. I should like to know at what time this sovereignty attaches; does it go with the first man who enters the territory, or must a hundred, or two hundred, or a thousand, have entered before this sovereignty attaches? This is an important point; and I shall be glad to have the senator's views on it. We, who maintain the sovereignty of the states, have no difficulty in fixing the time when the sovereignty attaches. It attaches, as we think, at the moment when the territory enters the Union as a state. Up to this time it resides in the states, or with the people of the states. With us there is no such thing as sovereignty in a territory. A territory is subordinate; she has no voice here, and no vote in the other branch of Congress. She is not equal with the states. But, on the instant of her entry into the Union, she becomes equal—the sovereignty passes—and, within her limits, she may do whatever Virginia or Massachusetts may do within their limits.

To admit the sovereignty of a territory is to admit the existence of a state out of the Union. A state or sovereignty in the Union cannot treat with any foreign power. The Constitution forbids it. But a state or sovereignty out of the Union may treat; it may form alliances, and, if it choose, not only remain out of the Union, but attach itself to any

foreign power. Suppose the "sovereign territory" of Oregon should take a fancy to attach itself to Great Britain, I should like to know how my friend from Michigan would prevent it? It is useless to say this will not happen. The question as to whether it will or will not happen does not affect the question of right. And besides, this is an age of progress, and we know not what a day may bring forth.

If it suits the purposes of the senator to answer, I should like to know to what point he carries his doctrine? Does he believe that the people of a territory, even before the erection of a territorial government, such as we are now making for Kansas and Nebraska, have the right to exclude slavery?

Mr. CASS. Does the senator wish me to explain?

Mr. BROWN. I should like an answer now on the single point.

Mr. CASS. I will answer the senator in a very few words. I believe that Congress, from the relation existing between them and the people of the territories, and the necessity arising from that relation, have a right to organize a government in a territory; but I also believe that if we neglect this duty, as we did in the case of California, the laws of God give the community a right to establish a government for themselves.

Mr. BROWN. The senator's answer does not exactly meet my question, unless he means that a government thus established may exclude slavery. If he does I am answered, and I dissent from the answer.

I admit that any people left without a government may make a government for themselves; that is to say, they may make such municipal regulations for the protection and security of life, liberty, and property as they may think best. But these regulations must be consistent with the rights of the sovereign. The senator is correct when he says the right to make this sort of government arises out of the necessity of the case. But the right must not be carried further than may be justified by the necessity that brought it into being. Whatever is necessary to the protection of the people in their persons and property may be done. And now will the senator, or any one else, undertake to show that the exclusion of slavery is at all necessary to the security of either persons or property in a territory? No one will pretend that it is. Its exclusion is not necessary to the existence of a temporary government; and being inconsistent with the rights of the sovereign, to wit, the states of the Union, it cannot be excluded by the usurpation of a power not granted by the Constitution, or justified by the tyrant's plea of necessity.

The temporary government thus established, and resting solely on necessity, can exist only at the pleasure of the sovereign. When he appears and asserts his authority this temporary government must pass away.

Suppose fifty Americans—and I care not if the number be more or less—are left on an island belonging to Great Britain, uninhabited, and consequently without an existing government. That they may set up a government for themselves no one will deny. They may fashion it after our own, if they choose. But if, at the end of a few years, the agents of the Queen appear to assert the authority of the crown—will any one pretend that our Americans can maintain their jurisdiction; must not their authority yield at once to the superior authority of the sovereign?

And so, I apprehend, it will be if possession is taken of territory belonging to these states. If it is without a government, those taking possession may make a government; but when the states appear by their proper agents to assert their authority, the provisional government must give way. It can no more be maintained that possession may be taken of territory belonging to these states, and the citizens of the state excluded with their property, than it can be maintained that an island belonging to Britain may be seized, and the Queen's subjects with their property excluded. If the senator has only meant to assert the power of a people left without a government to make one for themselves commensurate with their necessities, I concur with him fully. But if he goes further than this, and asserts a sovereignty that rises above the authority of Congress, and puts the states, the rightful owners of the soil, at defiance, then I dissent. To this I never can agree.

The period is well fixed in my mind, at which the right to exclude slavery from a territory attaches. It is when the territory comes to form a state constitution for herself—and this she may not do, the precedents to the contrary notwithstanding, until she has the requisite population. The Constitution has very wisely provided that each state shall be entitled to one member of Congress; that representation shall be apportioned among the states according to population; and to ascertain the population, it has provided for taking a census. Now, to admit a state without the requisite population to entitle her to a member, is a fraud upon the rights of other states, for it diminishes their political power; and to guess at the number of inhabitants, is a fraud on the Constitution, for the Constitution has directed you to take a census.

A state coming into the Union in a proper way has the right to come in with or without slavery, as she chooses. This I admit, and I admit nothing more. Perhaps a very rigid adherence to the rights of all parties would require a state to be in the Union, and fully invested with sovereignty, before she undertook to exercise so important a power as the exclusion of slavery. As an original proposition, I would maintain this doctrine. But the point seems to have been yielded, and I will not insist on it now.

To show how well I am sustained in the views I have so imperfectly expressed, I will read a few short extract from the speeches of Mr. Calhoun and one or two others on the doctrine of squatter sovereignty. On the first of June, 1848, Mr. Calhoun said :—

"There are three questions involved in this entangled affair. The first is the power of Congress to legislate upon this subject so as to prevent the slaveholding portion of the Union from emigrating with their property to any territory. The next question is *the right of the inhabitants of a territory to make a law excluding the citizens of these states from emigrating thither with their property*, and the third is the power of Congress to vest the people of a territory with that right." \* \*

"THE TERRITORY IS OPEN TO ALL THE CITIZENS OF THE UNITED STATES, AND IT MUST REMAIN OPEN, AND CANNOT BE CLOSED BUT BY THE PEOPLE OF THE TERRITORY WHEN THEY COME TO FORM THEIR OWN CONSTITUTION, and then they can do as they please."

On the 27th of June, 1848, Mr. Calhoun spoke at length on this subject. I read from his speech, at page 871 of the Appendix to the Congressional Globe. Having disposed of the power of Congress over the subject, he said :—

"I now go one step further, and propose to show that neither the inhabitants of

the territories nor their legislatures, have any such right. If the territories belong to the United States, if the ownership, dominion, and *sovereignty* over them be in the *states* of the Union, then neither the inhabitants of the territories nor their legislatures can exercise any power but what is subordinate to them." \* \* \*

"But if the reverse be true, if the dominion and sovereignty over the territories be in the inhabitants, \* \* \* they might exclude whom they pleased, and what they pleased. But in that case, they would cease to be territories of the United States the moment we acquired them and permitted them to be inhabited. The first half dozen of squatters would become the sovereigns, with full dominion and sovereignty over them."

I forbear to read Mr. Calhoun's argument. It was like all that came from him, full, complete, lucid, and convincing.

On the 12th of July, 1848, the present Secretary of War, then a member of this body, spoke at length on the territorial question. I read from his speech, as I find it recorded at pages 908, 909, and 910 of the *Globe's* Appendix for that year:—

"The various modes which have been proposed to exclude slaveholders from entering territory of the United States with their property may be referred to three sources of power: the federal government, the territorial inhabitants, and the law of the land anterior to its acquisition by the United States."

After discussing at length the power of the federal government over slavery in the territories, and concluding that no authority for its exclusion was lodged in Congress, the speaker continued:—

"Many of the reasons and principles presented to establish the absence of power in the federal government to exclude slavery from territory belonging to the United States, bear with like force against the second class of opinions—that the power rests in the territorial inhabitants. In the unwearied search of those who, from the foundation of our government, have sought in every quarter for the fountains of power by which the sovereignty of the states might be submerged, this, until recently, remained undiscovered."

The senator was neither unjust nor illiberal towards the early settlers in a territory. Hear him:—

"To the citizen who presses beyond the limits of civilization to open up to cultivation and settlement the forest domain of the United States, I have always been willing to extend protection and such peculiar advantages over other joint owners of the common stock as are due to the services he has thus rendered to the common interests. But the civil rights, the political principles of our government, are not to be transferred to those who shall be first in the race to reach newly acquired possessions, or who shall by accident be found upon them."

To show the conclusion reached by the speaker, I read his own remarks:—

"I have thus presented my view of the three sources from which it is claimed to draw the power to prohibit slavery in territory of the United States. From the considerations presented, my conclusion is, that it cannot properly be done in either of the modes proposed; that, not being among the delegated powers of the federal government, or necessary to the exercise of any of its grants, Congress cannot pass a law for that purpose; that the territorial government is subordinate to the federal government, from which it derives its authority and support, and that neither separately nor united can they invade the undelegated sovereignty of the states over their territory."

To fortify my own position, I might multiply authorities like these almost indefinitely. It may be sufficient to say, that so far as I know, no strict constructionist in the South has ever yielded the point that the inhabitants of a territory could exclude slavery. All have stood upon

the common ground that the people, when they come to form a state constitution, being duly entitled by their numbers and position in the government to make such an instrument, may, if they think proper, exclude slavery, and then its exclusion forms no just ground of complaint.

Justice, Mr. President, requires that I should, at this point, recur to a speech delivered by myself in the House of Representatives, on the 3d of June, 1848. It will be found at page 648 of the Appendix to the Globe. I then said:—

“The people hold the territories as tenants in common, and all, or any part of them, may enter these territories from any and all parts of the United States, and take with them their property. They may enact laws for their personal protection and the preservation of their property; but they cannot exclude others who come after them from the possession and enjoyment of equal rights with themselves.

The first who enter a territory cannot assume a sovereignty which belongs to all. The specific exercise of sovereignty over the question of slavery is held in abeyance until the people of the territory ask admission into the Union as a state, according to the Constitution; and being admitted, the state becomes sovereign within her limits.”

I will not detain the Senate with a reproduction of arguments employed by me at that time. My consistency is vindicated in what I have read. I summed up as follows:—

“The conclusion, Mr. Chairman, to which my own mind has arrived, on the several points involved, are briefly these: That every citizen of the United States may go to the territories and take with him his property, be it slaves, or any other description of property. That neither the United States Congress nor territorial legislature has any power or authority to exclude him; and that the power of legislation, by whomsoever exercised in the territories, whether by Congress or the territorial legislature, must be exerted for the equal benefit of all—for the southern slaveholder no less than for the northern dealer in dry goods.”

It will be seen, Mr. President, that I treated the subject then as I do now. I asserted then, as I assert to-day, that whoever legislates for the territories, whether it be Congress or a territorial legislature, is as much bound to give protection to my property as to the property of any one else. If the Constitution is to be observed, and our rights under it are equal, I want to know by what other rule we can be governed? Shall the senator from Ohio [Mr. Wade], who lives in a country where the people invest most of their gain in live-stock, take his peculiar kind of property into the territory of Nebraska, and then turn upon me and say, You shall not take your property there? Shall he do this simply because I chance to have invested the products of my labor in something to which he has a prejudice? He and his constituents are prejudiced against slavery, and will not live in a country where it exists. Suppose I and my constituents were to take the same prejudice against hogs, and sheep, and cattle, and say that we would not live in a country where they were permitted. Suppose that we, being a majority, should say to the people of Ohio, “You shall not drive your live-stock into the territories;” would we have a right to do it? Would not the gentleman consider such a declaration an invasion of his constitutional privileges? Whether deprived of his privilege to emigrate with his live-stock by the territorial legislature, or by the federal authority, would he not regard it an infraction of his rights as an American citizen?

Let me put another case. The senator from Connecticut [Mr. Smith] comes from a country where they make clocks, and sometimes very good ones; but we happen, at the South, to have some prejudices against

Yankee clocks. Suppose our people were the first to go into this territory, could they say to the people of Connecticut, "You shall not bring your Yankee clocks here?" Could the first half-dozen, or fifty of us who might emigrate from Mississippi or Alabama, undertake to exclude all New England simply on the clock question? This territory covers an area about seven times as large as the state of Virginia. Now, the question is, had the first half-dozen southerners, who happened to squat on one corner of it, a right to say that in all future time, in no part of this vast domain, shall there ever be brought a Connecticut clock? Would it not be monstrous? Would the people of Connecticut be willing to submit to it? Certainly not, and why? because a clock is property. It is something in which they invest the products of their labor—something against which they have no prejudice, but against which we have.

Now, sir, I submit that if I, and my constituents, have no right to gratify our prejudices at the expense of Connecticut and her clocks, then the senator and his constituents have no right to gratify theirs at the expense of Mississippi and her negroes.

I will not pursue this branch of the subject further. It was not my intention, in the beginning, to make a speech, and I have to apologize to the Senate for having already consumed more time than I ought.

I intend, Mr. President, to vote for this bill. But I must confess that the particular section under debate, and the one which has given rise to so much discussion, is not worded as I should have liked. It is not free from ambiguity; and, as I like directness in legislation, I would, if it had been left to me, have couched it in language so explicit that no one could have mistaken it. It declares, as a consequence of former legislation, that the Missouri compromise is inoperative and void. I would have said in terms: "the Missouri compromise is hereby repealed." But as the end is attained, I will not chaffer as to the means by which we attain that end.

The language employed by the distinguished author of this bill, and mover of the section now under consideration is, that the people of the territory may regulate their own domestic institutions for themselves, subject only to the restriction of the Constitution. I should have preferred a simple repeal of the Missouri restriction. That would have restored us to the position we had before the law was passed, and would have been free from ambiguity or circumlocution. But the language employed is not decidedly objectionable to me, and, I repeat, I will vote for the bill.

By yielding the "right to regulate domestic institutions," I understand we yield the right simply to regulate, not to destroy. To regulate is one thing, to destroy is another, and a very different thing.

Domestic institutions include, as I admit, the relation of husband and wife, parent and child, master and servant. But I deny that the right to regulate carries along with it the right to destroy. The right to regulate the relation between master and servant no more entitled the regulating power to destroy that relation, than does the power to regulate the relation between the husband and wife authorize the destruction of that relation. As well might the territorial legislature take a wife from her husband, under pretence of regulating their relations, as to take a servant from his master, under pretence of regulating that rela-

tion. This is my opinion, and I vote for the bill clothed in its present phraseology because this is my opinion. If I thought that, in voting for the bill as it now stands, I was conceding the right of the people in the territory, during their territorial existence, to exclude slavery, I would withhold my vote. That equality that exists among the states, and the people of the states, under the Constitution, is not taken away by any fair construction of the language employed in the bill. Senators, North and South, have spoken as if the bill conceded the right of the people in a territory to exclude slavery. I combat the idea. It leaves the question where I am quite willing it should be left—to the ultimate decision of the courts. It is purely a judicial question, and if Congress will refrain from intimating an opinion, I am willing that the Supreme Court shall decide it. But, sir, I have too often seen that court sustaining the intentions of Congress, to risk a decision in my favor, after Congress has decided against me. The alien and sedition laws, the bank law, the tariff law, have all been decided constitutional. And why? Not, in my opinion, because they were so, but because the Supreme Court, as a coördinate department of the government, was disinclined to clash with the other departments. If this question is allowed to go before the Supreme Court, free from the influence of a congressional pre-judgment, I will abide the result, though it be against me. If other gentlemen had intimated no opinion, I would have intimated none. But I am unwilling to see the weight of authority here thrown altogether on one side. For this reason I have spoken, and for this reason I call upon others who concur with me to speak.

Mr. President, I leave this subject. I ought not to have said so much, and yet I know not how I could have said less. At best, I could not hope to throw additional light on a subject like this. It has been illumined by the philosophy of Webster, made brilliant by the eloquence of Clay, and consolidated by the severest of all tests—Calhoun's logic. Still I was desirous of presenting some views of my own; and especially so, as I am advised that the senator from Michigan is going to address the Senate. I know full well his powers in debate; and I have not presented my remarks to provoke his criticism. But this I know, if they pass the ordeal of his investigation, no power on earth can shake them.

The senator will do me the justice to believe that it gives me no pleasure to differ with him on this subject. Accustomed to regard him as the great father of the Democratic family, I dissent with misgivings and great pain from anything that he says. On this question I think he is wrong; but my mind is not sealed against conviction. I will listen to him, and if I find myself in error, I will confess it with more pleasure than I have had in expressing these views. It is honorable, at all times, to confess our faults, and to repair injuries when we are convinced. If I have been at fault, and being so, have done injustice to the senator, I shall be glad to know it. I would surrender to any antagonist fairly entitled to a victory; but the age, experience, ability, and incorruptible integrity of the senator, make him an antagonist to whom any man may surrender without dishonor. He has only to convince me, and I surrender at discretion.



## INDIGENT INSANE BILL.

SPEECH IN THE UNITED STATES SENATE, MARCH 2, 1854, ON THE INDIGENT INSANE BILL.

MR. PRESIDENT: I voted for the principles embodied in this bill when I was a member of the House of Representatives, and I feel inclined to do the same thing here; but as in giving such a vote I shall differ with friends with whom I usually act, I feel desirous to assign the reasons why I shall do so.

I will not attempt a defence of the motive which prompts me to vote for this bill. A proposition which looks to the relief of the insane—of a class of our fellow-mortals who are shut out, intellectually, from all the world—ought to receive, and I am sure would receive, the vote of every senator on this floor, if he felt that he was justified, by his obligations to the Constitution, and his obligations of justice to his own constituents, in giving such a vote. I shall certainly not stop to defend my motives for giving a vote like this.

The considerations which stand in the way of a unanimous vote in favor of this bill seem to be twofold: First, as to whether we have the power to pass it under the limitations of the Constitution; and secondly, as to whether the bill does justice to all the states of the Union, and to all our constituents? These questions are not altogether free from embarrassment. After having investigated this subject in the House of Representatives some years ago, I brought my mind to the conclusion that we had the constitutional right to pass a bill similar to this.

I hold, Mr. President, that our authority over the public lands is more unlimited than is our power over the treasury of the nation. We hold our authority over the lands under a different clause of the Constitution from those clauses which authorize us to use the public money. Congress has power "to dispose of" the public lands. This power, I apprehend, is only limited by this: That they shall not be disposed of for purposes which are in themselves unconstitutional.

You have no right to increase or diminish the President's salary, or the salary of some other officers, during their term of office. You could not, therefore, under the general power to dispose of the public lands, give them to the President, or give them to any other officer whose salary is fixed by law, and which must neither be increased nor diminished during his continuance in office. But unless there be some limitation like this, imposed by some other provision of the Constitution than the one to which I have referred as giving us power to dispose of the public lands, I hold that you may use them for whatever purpose you may select; and upon this principle the government has uniformly acted, from its organization down to the present hour.

What, sir, have we done in reference to the public lands heretofore? We have given them away to erect public buildings in the states; we have given them away to establish common schools in the states; we have given them away to endow colleges in the states; we have sold them at every conceivable price, from twelve and a half cents an acre up to

fifty and sixty dollars an acre. We have given them for works of internal improvement in the states; we have given them as bounties to soldiers, to whom we owed nothing but debts of gratitude—soldiers who had been paid off and discharged forty years before we made the gift.

Under the act of 1841, you absolutely gave to each of the new states of the Union 500,000 acres of these lands, for a purpose which my southern friends insist is one not to be patronized from the general treasury; to wit, for purposes of internal improvement. Only two or three years ago, you made a relinquishment of millions upon millions of acres of lands to the new states, by what is commonly called the Swamp Land Bill. If we examine all these schemes, I apprehend it will be found, taking them all together, that they have been passed by a unanimous vote in this body. In other words, I think it will be found that there is not a member of the Senate who has not, at some time, voted for some one of these propositions. And why? Because senators have been in the habit of regarding our powers as unlimited over the public lands, except in the instances which I have pointed out, and those which are similar.

The senator from Virginia [Mr. Hunter] yesterday said that he could not draw the distinction between dividing the public lands for this object, and in the way proposed by the bill, and distributing the net proceeds of the sales of the public lands among the states. I hold that the two cases are different in this: That over the lands you have the unlimited control of which I have spoken, but when they have been sold, and the money has gone into the treasury, it becomes part and parcel of that treasury, and you have no more control there over moneys derived from the sales of lands than you have over moneys derived from imposts, or from any other quarter. It becomes one common treasury; and your control over one part of it is precisely the same as your control over every other part of it.

I would ask the senator from Virginia whether he conceives that Congress has a right to appropriate the net proceeds of the sale of one section of land, in a particular township, for school purposes in that township? Or, in these words, suppose that, instead of giving the land for school purposes, as Congress has done, and as the senator intimated yesterday Congress has a right to do, we should sell the lands and put the money in the treasury, and then there should be a proposition to appropriate the money back again to the same object. Suppose the section had been sold for \$1000; could you take \$1000 from the treasury, and appropriate it back again to establish common schools there? I apprehend not. And why? Because you cannot pursue the land after it is converted into money. When you have converted it into money, you lose that control over it, which you have and may rightfully exercise so long as it is land. This is so, because when you put it into the treasury, as I remarked before, it becomes part and parcel of one common fund. There is no line which divides the land money from the money received from customs, or from any other source of revenue. It is not so, however, so long as it retains its distinctive character as land. The senator from Virginia, yesterday, justified the granting of lands to railroad companies. While it seemed to be unfair towards some of the states, yet he thought it might be justified upon the ground, that by

giving one section of land for a railroad, the alternate section was improved in value.

Mr. HUNTER. If the senator will allow me, I said nothing about giving lands to railroad companies.

Mr. BROWN. I understood the senator to say that the grants which we had made heretofore for internal improvements—

Mr. HUNTER. I spoke of the grants of the school sections.

Mr. BROWN. I, perhaps, attributed the argument to the wrong quarter. I heard it from some source, and was about to reply to it. If it be the fact that the giving of the alternate sections to railroads makes the remaining sections worth twice as much as before, that does not affect the question of power—as to whether you have the right to do it. That fact may furnish a very good reason why you should exercise a power already existing, but certainly it cannot confer a power which did not exist before. I would put the question of power to grant lands, as proposed in this bill, upon the same ground as the question of power to grant land to railroads. You derive it from that clause in the Constitution which gives you authority to dispose of the public lands. You get it there. The purpose for which you dispose of them does not and cannot, by any possibility, affect the question of power. If you do not have the power to appropriate the lands, no use to which you can apply them, however beneficial to yourselves or to others, can confer the power. The fact that one section of land is doubled in value by giving an adjoining section to insure the construction of a canal or railroad, can only prove that such disposition of the land is wise or prudent. But it cannot confer a power not already existing under the Constitution. If you have no authority under the Constitution to grant land to railroads, you cannot assume it and justify the act solely on the ground that nothing is lost thereby to the government, or that it may prove a speculation. If the advantage resulting to the treasury is to furnish the rule that governs us in our use of the public lands or money, I know not why the government should not become a stockholder in every profitable railroad, or other successful scheme for speculation in the United States.

I hold this to be true, that Congress has no authority over the *public* money that can justify its use for any purpose other than the common benefit. The public—general, I may say universal—interests of the whole country must be subserved in the use of the public money. You have no authority to use it for local, partial, neighborhood purposes. Your authority over the public lands is less limited. With them, as I have said, you have endowed colleges, established common schools, cleaned out rivers, erected levees, constructed railroads, sold them for almost nothing, and given them to individuals without price. Could you thus have treated the public treasury?

If Congress could endow more than twenty colleges by grants of public lands, I know of no reason why it may not endow a lunatic asylum. The same clause that authorized you to give Missouri, Indiana, Ohio, Mississippi, Alabama, and other states lands for college purposes, will justify you in giving these and other states lands for the indigent insane. If, having the power, it was a wise and judicious use of it to give lands to the sane, how much more wise and humane must it be to give it to the insane?

I do not question the power. I think the bill proposes a wise, judicious, benevolent, and humane exercise of it; and if justice is done to my own, and all the other states, I know not why I may not vote for it.

I do not desire to pursue this branch of the subject. My right being clear in my own judgment, to give the vote, my only purpose was to justify it in the judgment of others.

The next question is, whether it will be just not only towards my own state but towards all the states of the Union, to pass such a bill as this? In the outset I yield the claim which has been so often set up and insisted on, that the old states have an interest in these lands; though I think they have sometimes made more fuss about it than there was any occasion for. I think I have heard the senator from Virginia occasionally speak of the interest which his state has, in common with the other old states, in the public lands.

Now, when we propose to recognise the existence of this claim, and, to some extent, discharge it, the gentleman from Virginia comes in and opposes it. The distribution of the land provided for in this bill, is perhaps as near right as it can well be made.

Mr. BADGER. They cannot be perfectly right.

Mr. BROWN. As the senator suggests, absolute right cannot be reached; no human ingenuity can devise a bill which would be absolutely and perfectly just towards all parties. There must be some little injustice somewhere; it is so in all our legislation; but this bill gives to the old states and to the new, an appropriation of public lands, and it divides them among them according to their population and territorial extent.

Now, sir, if we pass this bill, it will relieve the state of North Carolina, the state of Virginia, and all the other states from that which is a burden upon their own treasury and upon the purses of their people; for the insane must be taken care of, everywhere, in all civilized communities. Almost all the states have made provision for this purpose, and those who have not, ought to do it, and doubtless will do it very soon; and how is this to be done but by levying taxes upon their people? Pass this bill, and you relieve them, to some extent, from this taxation. I believe the state of North Carolina gets from 300,000 to 400,000 acres, and to that extent the bill creates a fund to relieve her people from taxation for the particular objects specified in the bill. It will have the same effect in all the other states. To this extent, it is just to one state as it is just to the others. Its operations will be equal, or as near so as we can make them, with a single exception which I will point out.

There is in this bill a provision, which was introduced two or three mornings ago, and which caused me to hesitate as to whether I could vote for it. It was the amendment introduced by the senator from California, excepting that state out of the general operations of the bill. It struck me at the time that it was hardly fair to give any one state of the Union an advantage over the others, by excepting her out of the general provisions of a law like this. That there are reasons now existing why California should be thus favored may be true, but those reasons must pass away after a few years. The amendment authorizes California to locate her land upon any unoccupied and unsurveyed territory within her limits. There are unsurveyed and unoccupied lands within the limits of other states—Iowa, Wisconsin, Arkansas, and perhaps others.

But these states have no right to appropriate them under this bill. They must take their land, and my state must take hers, from that which has been surveyed, offered for sale, and is now subject to entry at \$1.25 per acre; and the same is true of all the states, save California alone, she being specially excepted out of the general provisions of the bill.

Every one who knows anything about the public lands, knows that there is a vast deal of difference between being confined to land subject to entry at private sale, and being allowed to go upon land which has never been brought into the market, and where you can get better land, and that of infinitely more value. I say I did not think this provision just at first, and I thought I would not vote for the bill upon that ground; but, upon reflection, as it does not affect the interest of my state, and as I have the opportunity of saying that, in giving my vote, I do not mean to approve of the principle involved in the amendment, I will still vote for the bill. It does not interpose an insuperable barrier. It gives an undue advantage to California, but it works no special injury to Mississippi. My state gets the same with this provision in the bill as if it was out, and she gets it in the same way; and being able, in this form, to put upon the record that, in giving my vote, I do not desire to be understood as approving any principle which draws a distinction between the states of the Union, I can still vote for the bill.

If California cannot get her lands this year or next year, she will be able to get them much before she is as old as the youngest of her sisters—long before she will be a state as old as Mississippi. In a few years she will be enabled to realize the benefits of this bill in precisely the same way that Mississippi and other states realize them now. Still I do not interpose this as an insuperable barrier to my vote. Without detaining the Senate further, I have only to say, in conclusion, that having given to the bill all the reflection which my time and opportunities have allowed me, I feel prepared to vote for it.

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On the 7th of March Mr. Brown continued the discussion, and in reply to his colleague (Mr. Adams) said as follows:—

I do not intend, Mr. President, to protract this discussion. It is not my purpose at all to reply to the speech of the senator from Delaware; I have, however, a few words to say in reply to the remarks which my colleague made this morning, and, as he will understand, certainly in no spirit of controversy; but as we differ about this measure, I wish that my views may go upon the record with his own. I shall not repeat what I said the other day when I gave my views upon the bill.

I do not understand my colleague as calling in question the power of the government to make such grants of the public land as have been made heretofore for school purposes, for internal improvement purposes, and for the various objects to which Congress has appropriated public lands. He is not understood by me as calling in question the power of the government to appropriate land, as it has appropriated it in our own state, for example, for public buildings, nor the power to appropriate land, not only to endow colleges, but to establish common schools. He has not questioned the power of the government to make us a grant of more than a million of acres of land for internal improvement purposes,

to erect levees on the banks of the Mississippi, and various other streams in our own state, and in other new states which have had the same sort of grants. My colleague at this very session has introduced one or two bills making grants of alternate sections of land for railroad purposes. In doing this I had supposed that the whole question of power was conceded.

I know that my colleague and myself agree upon one thing—that this government has no power to make appropriations from the national treasury for works of internal improvement. He will not pretend to insist that Congress may sell the alternate sections of land which he himself proposes to grant, and then vote back from the treasury of the United States the precise sum which it had received from the sale of these lands, for the purpose of aiding in the construction of the roads. My colleague will not pretend that Congress has power to sell the millions of acres of swamp lands which have been granted to our own state, even at one cent an acre, and then appropriate that money back from the treasury to erect a levee on the Mississippi river, or on the bank of any other stream. He, therefore, like myself, draws a clear distinction between the power which the federal government exercises over the public lands and the power which it exercises over money in the treasury. My colleague will not pretend for a moment—for I know he is a Democrat, and a strict constructionist—that Congress has power to sell a township of land in our own state, and then take the money for which it has sold that township, and appropriate it to the endowment of a college in that state. Yet all such grants in the form of land, have not only received our sanction, but have received the approval of our votes, upon the ground that the federal government administers the public lands upon one principle, and the money in the treasury upon another principle; that you hold your power over the lands by a tenure very different and more ample than that by which you hold your power over the treasury of the nation.

Now, I do not understand my colleague as having objected to the exercise of these powers heretofore; and he admits the distinction which I have drawn. He says, however, that heretofore the grants have been made to states within which the lands lay; that land has been given to Mississippi, for example, to Alabama, Louisiana, and other states, but always taken from the public domain lying within the limits of those states. I cannot conceive that this affects the question of power. The land either belongs to the new states, or it belongs to all the states. If it belongs to the new states, to the states within which it lies, then we have no business to come here to Congress and ask you, Mr. President, and your associates here, to dole it out to us. If it is our land, if it belongs to the land states, why should we ask Congress to give it to us? Why not assert our authority over it, take it into possession, and administer it in our own way? If it be, as I suppose it is, the property of all the states, the old as well as the new, then I know not by what sort of reasoning my honorable colleague and other gentlemen will justify themselves in voting to give land to the new states and refusing to give it to the old states. I say, sir, that if Virginia, and Massachusetts, and other old states have an interest in these lands, like the land states themselves, the same authority which authorizes you to give land to the new authorizes you to give it to the old states; and the same authority which authorizes

you to give land for school purposes, and endow a school, will authorize you to give it to endow an insane asylum. I want to see the astute gentleman from Delaware, who has exercised his ingenuity on this subject, draw the distinction between endowing a college for sane children and a college for insane children.

Mr. BAYARD. I will state the difference to the gentleman in a moment. I cannot account for the reason under which Congress may have acted when they adopted the acts to which he refers; but I can state the reason why I suppose, from the circumstances, they did so act. I know the fact, that the general land system authorizes the reservation of every sixteenth section in a township for school purposes. I know the fact, that the swamp lands, as they are called, have been granted to the states in which they lay. I suppose that was upon the principle which was stated by the honorable senator from Louisiana, of the right of the government as a landholder. When Congress were devising a general system for the disposition of the public lands, they organized a land system on the basis of securing every sixteenth section for school purposes, so that it would be an inducement to settlers to go on the lands and purchase them.

So in regard to the swamp lands. They supposed them to have been impracticable and useless as to any benefit to the general government; and, as they had no authority to enter into improvements on them, in order to drain them, for the purposes of sale, they gave them to the states in which they lay, under the idea that if they were drained by those states, the draining would tend to improve the residue of the lands within the limits of those states. This is what I suppose to be the basis on which the distinction is drawn between making an application of the public lands to the states at large and the states in which they lie. It is a part of the general system conducive to the sale of the lands, but that would not apply to the present bill.

Mr. BROWN. I understand the gentleman's argument perfectly; but he has failed to draw the distinction between the arguments which justify the exercise of power and those which establish its existence. When you gave away the swamp lands for the purposes indicated by the senator from Delaware, and when you gave alternate sections of land to aid in the construction of a railroad, you gave it because the grant enhanced the value of the remaining lands. That is the reason which in such a case moves you to action. It is the argument by which you undertake to justify the giving away of the public lands; but it certainly does not confer the power on you to give them away. The existence of the power must be there in the beginning, and then you resort to this argument to justify you in the exercise of the power which exists.

Sir, if you have no power to give to the state of Mississippi alternate sections of land for railroad purposes, can you assume the power, simply because by granting alternate sections you enhance the value of the adjoining sections? If there is that in the Constitution which forbids the giving of the land, how can you get the power simply because by its exercise you may make the adjoining sections worth twice as much as they were before? This may be a very good argument and a very good reason why you should exercise the power if it exists, but it cannot be the basis of a constitutional right.

Now, if you have no power under the Constitution to give land for school purposes in a township, can you assume and exercise the power, simply because by giving it you may induce settlement there? The fact that the grant will induce settlements may furnish a very good reason why you should exercise the power if it exists; but that fact cannot give the power, if there is an absence of it in the Constitution. If you have power to grant lands for school purposes, for internal improvement purposes, in order to erect public buildings, to give bounties to soldiers, and for the thousand and one other purposes for which you have used them, it is clear to my mind that you have power to grant them to the states to enable the states to erect insane asylums. Then the power to grant land for this purpose existing, I shall have no difficulty in showing that the purpose aimed at in this bill can be justified upon the soundest principles of reason; philanthropy, and everything which is honorable to our common nature. It is a simple question of power, and I derive it from the same source from which you derive power to give land to railroads, to give it for school purposes, and give it to soldiers, and to give it for the thousand and one other purposes for which you have given it from the time you first exercised authority over the public lands down to the present hour.

My colleague talked about this being the first instance in which land was to be given to any other than the states in which it lay. What did you do when you gave away fifteen or twenty millions of acres—perhaps more, certainly not less—to soldiers, of whom seven or eight thousand, perhaps more, perhaps twenty thousand, were in the state of New York, and went to the land states and located their lands there? Was that giving lands to the states in which they lay? No more than this is giving lands to the states in which they lay. In that case you issued scrip to the twenty thousand discharged soldiers in New York, and they sold the scrip, or located it in the new states. Here you propose to give the state of New York seven or eight hundred thousand, or a million acres of land in scrip—she cannot locate it in her own name, but must sell it to individuals, and in the end it will be located just as bounty warrants are. Then I want to know where is the distinction between the two cases? You issued, say fifteen millions of acres in scrip to the soldiers in New York and Pennsylvania, and they have gone and located their scrip in Wisconsin, Iowa, Minnesota, and the other new states and territories. Now you propose to issue to those states, say two millions of scrip, under this bill, to be located in the same way. What is the distinction between the two cases? I ask my honorable colleague how can he draw a distinction? It is true, in one case the scrip was issued to individuals living out of the land states; but those individuals sold it to some other individuals who went and located it; and here you issue scrip directly to the states, but the states sell it to individuals, and the individuals at last locate it in the new states, and settle on the lands; so that the effect on the land is precisely the same in both cases, and the principle involved, so far as I can see, is precisely the same.

Having turned this question over in my mind, and having viewed it in every aspect in which it can be looked upon, I have come to the conclusion that no reasonable obstacle can stand in the way of passing this bill on the ground of a want of power. And now I will state a reason suggested by the argument of my colleague why I may vote for the bill.



I hold that the old states have an interest in this land, an interest which we recognise, and which we are bound to recognise, which we practically recognise in the very act of coming here and asking them to vote to give us land for our railroads. I will not ask the old states to yield their interest to me for railroad purposes, and for the purpose of fencing out the floods of the Mississippi river, and other western and southwestern streams. I will not ask them to give up their interest in the swamp lands. I will not ask them to give up their interest to educate the children in my state, as they have done by granting her the sixteenth section of public land in every township for school purposes. I will not ask of them to surrender their interest to promote the interest of my state, and then turn upon them and say, "I will not vote you one solitary acre of this land for any purpose within the limits of your states." While I will be generous to myself, generous even to a fault to my own constituency, I will at least be just to those who have an interest in these lands like that of the people whom I represent.

I do not, however, rise to discuss this question again. My colleague will certainly understand me as not presenting my views, in reply to him, in any spirit of controversy; but I wish to justify the vote which I shall give; and more especially since my honorable colleague will vote on the other side.

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## PRESIDENT PIERCE'S VETO MESSAGE OF THE INDIGENT INSANE BILL.

SPEECH DELIVERED IN THE SENATE OF THE UNITED STATES, MAY 17,  
1854, ON THE PRESIDENT'S VETO MESSAGE, AND IN DEFENCE OF THE  
BILL MAKING A GRANT OF LAND TO THE SEVERAL STATES FOR  
THE BENEFIT OF THE INDIGENT INSANE.\*

**MR. PRESIDENT:** It is with extreme regret that I utter a word on this subject. To me it would be a more grateful task to sustain the views of

\* May 3, 1854, Mr. Brown, on the reception of the President's Message vetoing the Indigent Insane Bill, made the following remarks, preliminary to the complete discussion of the merits of the veto:—

Mr. President: Of course I do not wish to say a word as to the number of copies of this message which should be printed. I would as soon vote for the printing of twenty thousand as for printing ten thousand copies. I have no doubt that every reading man in the country will examine the message, and examine it with great care. But I think it is due to those who voted for this bill that something shall go out with the message to arrest public attention, and induce the public mind to pause, before it comes to too hasty a conclusion, as to the correctness of the doctrines set forth in that paper. I certainly do not intend to undertake an answer to a carefully prepared state paper, upon merely hearing it read at the Secretary's desk. This, however, is not the first time that the subject of giving lands for the benefit of the insane has been before the Senate. It was here, according to the record which lies before me, in 1851, and, after an elaborate discussion, the bill then passed the Senate by a majority of more than two to one. I have the yeas and nays before me. On that occasion the yeas were 36, and the nays 16. That the Senate may understand who it was that voted in favor of the bill at that time, I ask leave to read the list of yeas and nays. The yeas were:—

"Messrs. Badger, Baldwin, Bell, Benton, Berrien, Borland, Bradbury, Chase, Clark, Clay, Cooper, Davis &c

the President than to oppose them. A strict constructionist of the Constitution myself, it is more pleasant for me to act in harmony with those who construe it strictly, than to differ with them. We have rare ex-

*Massachusetts, Dawson, Dayton, Downs, Ewing, Greene, Hale, Hamlin, Miller, Morton, Norris, Pearce, Phelps, Pratt, Rusk, Seward, Shields, Smith, Soule, Spruance, Sturgeon, Underwood, Upham, and Wales—36."*

The nays were :—

*"Messrs. Atchison, Cass, Davis of Mississippi, Dodge of Wisconsin, Dodge of Iowa, Felch, Gwin, Houston, Hunter, Jones, King, Mason, Rhett, Turney, Walker, and Yulee—16."*

It will be seen by an analysis of the vote that some of the most rigidly strict constructionists of the Constitution are recorded in favor of the bill ; among them are two gentlemen who have received the highest mark of the President's consideration—Mr. Borland and Mr. Soule. They are strict constructionists of the southern school ; and they have both been sent abroad on missions of the first class. I mention this fact simply that the country may be induced to pause before it comes to too hasty a conclusion in reference to this subject.

During the present session of Congress the bill has been under consideration in the House of Representatives. On its passage the yeas were 81, nays 53. It was discussed there. It was certainly not hastily passed. After having been before Congress for several years, and after being pretty elaborately discussed at this session, and at former sessions, it has passed the House, if not by a majority of two to one, certainly by a very heavy majority. My experience is, that in the House they divide pretty closely upon almost every question of general interest. I find among the yeas many gentlemen of acknowledged ability, strict constructionists of the Constitution, good Democrats, men who have never been suspected of faltering in the support of the Constitution, or of Democratic principles. The same bill was under consideration in the Senate during this session, and though the Senate then was not so full as it was in 1851, when the former vote was taken, the bill passed this body a second time by a majority of over two to one. The vote was 25 to 12. The yeas upon the occasion of its passage were :—

*"Messrs. Badger, Bell, Brown, Chase, Clayton, Dawson, Dodge of Wisconsin, Everett, Fessenden, Fish, Foot, Geyer, Gwin, Hamlin, Houston, Jones of Tennessee, Morton, Rusk, Seward, Shields, Stuart, Sumner, Thompson of Kentucky, Wade, and Walker—26."*

The nays were :—

*"Messrs. Adams, Atchison, Butler, Cass, Clay, Dodge of Iowa, Douglas, Fitzpatrick, Mason, Pettit, Weller, and Williams—12."*

I do not say, sir, that after these votes the President was bound to approve the bill against his views of constitutional propriety. I am very far from finding any fault with him for having sent in this veto. But I again say, that, looking to votes like these, the country ought to pause before it comes to a hasty conclusion in reference to the soundness of the views which the President has put forth. It is no light thing for a measure, after passing the Senate twice by a majority of more than two to one, and after passing the House of Representatives by a majority of nearly two to one, to encounter an executive veto. If it had passed hastily, or without due consideration, it would not surprise any one if the President should arrest it. But the bill before us, as we all know, was discussed in both Houses of Congress, at this and at former sessions.

I said before that I did not mean to attempt an answer to the arguments of the President, after having merely heard his message read. Some of the arguments, I confess, struck me as having force in them. Some others seemed to me to have but little force. This, perhaps, arose from the fact that I had heard them on many occasions before, and having become accustomed to them, I did not regard them with the same consideration that I would something new.

The President, in the outset of the message, admits that this is a measure of great humanity, and one which commends itself to the warmest sympathies of his heart. I am glad he said so, because I apprehend that the sentiment will find a response in the heart of every American citizen, of every friend of humanity, whether he resides north or south, east or west. The President says that eleemosynary objects or purposes are not among those which are provided for in the Constitution. So they are not in express terms ; but does Congress never legislate upon any subject in regard to which it has not been expressly authorized to legislate ? If not, I want to know where we get our authority to legislate for school purposes ? The President makes an argument to show by implication that we have the power to do that. All the grants that

amples in the administration of the government of a rigid adherence to that instrument, and any attempt to set us an example excites my admiration. I could wish, however, that the President had selected a less

have been made from time to time for school purposes are sanctioned by the Constitution, according to his construction of it; and yet, sir, you may read the instrument from one end to the other, and find no specific power to make grants for school purposes. If the President will point to the clause which authorizes grants of land to colleges, I will show him the clause which authorizes the grant proposed in this bill.

But, says the President, if we legislate for the benefit of the insane, where are we to stop? Are we to carry our benevolence so far as to legislate for the protection of all other indigent or unfortunate classes? This, you will see at once, is not an argument which can touch the question of power, but it is simply an argument which reaches the question of the exercise of power. If you have authority to do this, it may follow that you have the power to do something else; but it does not follow that because you do this, you ought therefore to do something else. If you have the power to make an appropriation of land for the protection and benefit of the indigent insane, it may follow that you have the power to make an appropriation of land for the protection and benefit of the indigent who are not insane. But if you exercise the power in the one case, it does not necessarily follow that you must exercise it in the other.

The President seems to think that in this matter the states will be brought to bow to the authority of Congress. I do not think so. When my state and yours, Mr. President (Mr. Bright occupying the chair), accepted donations of land for school purposes, for common schools, and for schools of a higher grade, did it ever enter into your head or mine that our states were thereby humiliated, and were bowing as paupers, and beggars, and mendicants, to the authority of Congress? No, sir; we felt that we were receiving a part of that which belonged to us, that we were not beggars, but that Congress was giving its assent to our exercising exclusive jurisdiction over a part of that which belonged to us in common with our fellow-citizens of all the states.

The President seems also to be apprehensive that if we go on legislating in this way, we shall dry up all the sources of benevolence in the states, and that the people of the states, instead of taking care of their indigent insane, their poor, their blind, and their lame, will habitually look to Congress for the protection of those classes. I think not. With as much justice might you say that, if you receive land from the government for the education, in part, of your children, this will induce the states to look to Congress for the means of educating all the children. Did it ever enter into your mind, sir, when Congress granted your state the sixteenth section of land in each township for school purposes, that, by the state accepting it, you were in danger of becoming mendicants, begging Congress to make appropriations for the education of all the children in your state? I apprehend there is no more danger of our becoming beggars at the footstool of Congress for the support of our indigent insane, our indigent blind, and our poor of every class, if we accept a grant like this, than there has been that we should become beggars of Congress to educate all our children, because, in days gone by, we accepted aid from Congress to educate a part of them.

But, sir, the President further tells us that this bill is in violation of the public faith. And why? Because the land stands mortgaged for the redemption of our public debt. With all due respect for the President, I must say that this argument does not strike my mind with great force. You have more money in the treasury now than will satisfy all the demands against it. Your Secretary of the Treasury is out in the market, constantly buying up, at a large premium, the bonds of the government. Instead of being without money, and being compelled, in good faith, to keep the mortgaged property until you discharge the obligations which are resting upon it, you have more money than will satisfy all the demands against you.

I cannot conceive that the bill is in violation of the public faith, because in disposing of the lands as the bill proposes, you are not putting yourselves in a condition to avoid, or even to render dubious, the payment of your public debt. But, sir, when Congress passed a bill granting millions upon millions of acres of the public lands to your soldiers, the public domain was then under mortgage. The same sort of obligation rested upon it then as now. The same thing occurred when you passed the swamp land act. When you granted millions upon millions of acres of land for railroad purposes, you granted land which was under this same mortgage. It is true, an argument is made to prove that if you grant one section for a railroad, the next is doubled in

worthy object than the one before us for a manifestation of his zeal in sustaining the Constitution in its letter and in its spirit.

If this were an original question I would be silent. But having voted

value, and so nothing is given; but suppose the mortgagee does not think so; and suppose it does not turn out so; is the public faith violated? The President introduces the prudent proprietorship argument, to justify grants to railroads. It is one which we have frequently heard, and it always strikes me with great force.

But if Congress, as a prudent proprietor, may grant land for one purpose, saying "this is as I would dispose of it," where does the President get authority to say to that proprietor, "you shall not grant it for another purpose, because that purpose does not strike me as being proper." If a prudent proprietor may give land for school purposes, for railroad purposes, for internal improvement purposes, and for various other purposes, as you have done time and time again; and if the same proprietor concludes that he may give a little for the protection and benefit of the indigent insane, who shall dispute his right to do so, or restrain him in the exercise of his judgment? The people are the owners of the soil, and, I think, if their representatives say, in their name, that this is a just and proper disposal of the land, they ought to be allowed to appropriate it in this way. That is my judgment.

One of the grounds on which the President justifies our giving away the swamp lands is, that, by so doing, we protected the public health. He intimates that the lands were subject to overflow, and produced miasma and malaria, and were exceedingly detrimental to the public health. To get clear of this nuisance, it was a prudent disposition to give the lands to the states, that the states might drain them, and thus secure the public health. This is the argument as I understand it. Where, sir, do we get power to protect the public health? Is that in the Constitution? If we protect the public health in a state, and do it constitutionally, I pray you, have we not the right to protect the indigent insane in a state, under the same clause in the Constitution? If Congress may do anything towards protecting the public health in the state of Arkansas, or Mississippi, why, by the same authority, may it not protect the indigent insane in Delaware, or Pennsylvania? I confess myself wholly unable to see how it can exercise the one power, and yet be constitutionally denied the right to exercise the other. I should never have thought, myself, of such an argument; but the President seems to rely upon it; and, therefore, I take it for granted there must be something in it more than I have seen.

I should not have said a word on the message at this time, but that I wanted the country to understand when they enter upon the investigation of this subject, that after mature discussion in this body, the bill has twice passed on the yeas and nays by a majority of more than two to one. I want that this point may be understood; that calm, dispassionate men shall, when they come to investigate the subject, take into account the fact that while the President has felt constrained to veto this bill on constitutional grounds, other gentlemen of high legal fame have taken different grounds; that there are arguments, in fact, on the other side of the question. A right minded man, a man of proper thought, ought, in justice to the Senate and House, before he makes up his mind, to examine and see what the arguments are that justified the vote, and then having taken the *pros* and *cons* into the account, having investigated both sides of the question, give such judgment as he feels he ought to render.

I voted for this bill when it was before the body; and upon hearing the message read, my convictions of its constitutionality have not been at all shaken. I will read the message, and read it again. I have none of that sort of pride of opinion, that love of consistency, which will induce me still to stand by the bill, if, upon a careful investigation of the President's arguments, I shall be convinced that he is right and I am wrong. But I say that upon hearing the message read from the secretary's desk, I have not been so convinced. The inclination of my mind now is, and it is strongly so, that I shall record my vote as I did before.

I trust, sir, that no one will suppose that in submitting these remarks, and in taking this position, I am becoming in any degree the antagonist of the President. He has his constitutional opinions about this question; I have mine. He acts upon his convictions; and I shall act on mine. I will make no attack upon him; far, very far from it. I have great personal respect for the President; great respect for him as a politician and as the head of the great party to which I belong; and I am sure he will not take it amiss if I say that I have yet a much higher respect for the distinguished office to which he has been elevated by the American people. These

for the bill that has fallen under the Executive veto, in the House and in the Senate, I feel called upon in justice to my constituents, and to myself, to assign the reasons which justified me in giving these votes. I yield to no man in a rigid adherence to the Constitution.

I have no oration to pronounce in behalf of the indigent insane. These children of misfortune are their own most earnest advocates. Immured in cells, or shut up in loathsome dungeons, shut out from the light of day and from the light of reason, with the hand of God resting heavily upon them, their mute appeals to us for help and succor are more eloquent than anything that I can say.

The President has declared, with an earnestness that does him credit as a man and a Christian, that he has "been compelled to resist the deep sympathies of his own heart in favor of the humane purposes sought to be accomplished" by this bill. The sentiment will find a hearty response in the bosom of every good man. Of all the millions who live under the ægis of our Constitution, there is perhaps not one who will not say that the purposes sought to be accomplished by the bill are humane, benevolent, Christian, and eminently worthy of all the support which we can give them consistently with our duties to the Constitution. We have, then, but one question before us: Can we pass this bill without violating the Constitution?

To that question I address myself.

The Constitution says: "The Congress shall have power to DISPOSE OF and make all needful rules and regulations respecting the territory or other property belonging to the United States."

That the word *territory* is used in this connection as synonymous with *land*, and that land is here treated of purely as property, is not questioned, I believe, by the President or any one else.

To dispose of—to dispose of the territory, to dispose of the land—what is meant by that phraseology? In ordinary parlance, it means to give, to sell, to bestow, to convey, and I apprehend that it was used simply to convey its ordinary meaning. The framers of the Constitution were men not only of common sense, but of extraordinary astuteness. They knew the force of words, and the meaning of words, and it is a reproach to them to say that they employed words with one signification in the Constitution, which, in their common every-day use, carried with them a different signification.

I have consulted eminent lexicographers as to the true meaning of the words "to dispose of," and with these results:—

JOHNSON.—*To dispose*: To employ for various purposes; to GIVE; to place; to bestow.

*To dispose of*: To GIVE AWAY; to employ to any end; to put into THE HANDS OF ANOTHER.

RICHARDSON.—*Dispose*: To employ for or apply to a particular purpose or use, and thus to bestow.

considerations, if nothing else, would restrain me from saying anything in the slightest possible degree unkind in regard to him, or of the paper which he has sent to us. But, sir, if all these considerations were out of the way, my own self-respect would always induce me to speak of the President of the United States, and of any paper which he may send to either House of Congress, with becoming respect and consideration.

TODD.—*Dispose*: To employ to various purposes; to diffuse; TO GIVE, to place; to *bestow*.

*To dispose of*: To apply to any purpose; to transfer to any other purpose or use; to put into the hands of another; TO GIVE AWAY BY AUTHORITY.

WEBSTER.—*Dispose*: To apply to a particular purpose; TO GIVE; to *bestow*, as, You have disposed much in public piety. *In this sense, "to dispose of" is more generally used.*

*To dispose of*: TO GIVE AWAY or transfer by authority.

WALKER.—*To dispose of*: To apply to any purpose; to put into the hands of another; to *give away by authority*.

Now, sir, if Congress has the power to dispose of the public lands, and if "TO DISPOSE OF" means as Richardson, Johnson, Walker, Todd, and Webster, all agree it means, to *give*, where is the want of power to give these lands for the benefit of the indigent insane?

The power to give having thus been conferred in express terms by the Constitution, there can be no limitation to the use of that power other than this, that it shall not be used for a purpose inhibited by the Constitution in express terms, or by fair implication.

There is no pretence, that the purpose of this bill is inhibited by the Constitution in express terms. The inhibition must therefore be supplied by implication, if at all. I shall undertake to show that there is nothing in the Constitution, or outside of the Constitution, which being fairly construed supplies any such implication.

The President has undertaken to show, first, that the Constitution itself, not in terms but by fair intendment, prohibits such a gift as that proposed in the bill; and, secondly, that the deeds of cession from New York, Virginia, Massachusetts, and North Carolina, in more express terms, prohibit it. On both points the President and myself differ.

The President says the bill proposes to make provision for an eleemosynary purpose within the several states, and that "this presents the question at the threshold as to whether any such act on the part of the federal government is warranted or sanctioned by the Constitution." The point here presented is not that Congress cannot provide for an eleemosynary institution, because it is such an institution, but that Congress cannot provide for such an institution *in the states*. I am warranted in saying this, because the President clearly admits that it is within the competency of Congress to provide for an institution of this character in the District of Columbia—his language being, "if Congress have power to make provision for the indigent insane *without the limits of this District*, it has the same power to provide for the indigent who are not insane, and thus to transfer to the federal government the charge of all the poor in all the states."

I respectfully submit that the President has not met the question fairly. We propose to give the lands, and instead of meeting us on the question as to whether we have the power to make the gift, the President attacks the object of the gift, and on the ground that this object is located without the range of constitutional legislation, to wit, in the states. I grant that Congress has no *express* authority or warrant in the Constitution "to make provision for an eleemosynary purpose *within the states*;" but has Congress any *express* warrant or authority to make

provision for colleges, schools, and railroads within the states? Clearly not; and yet I shall show before I get through that the President has very distinctly indicated that all these come within the range of constitutional legislation.

I shall presently inquire by what warrant the Congress gives lands to schools, colleges, railroads, to build houses, and drain swamps, in the states, and shall then endeavor to show that the same Constitution which sanctions these grants also sanctions grants to lunatic asylums.

For the present let me pursue the argument of the President—"It cannot be denied," he says, "that if Congress has the power to make provision for the indigent insane," &c., "it has the same power to provide for the indigent who are not insane." Granted; but has the President well considered the difference between the mere possession of a power and the necessary obligation to exercise that power? Because Congress has the power to do a thing, it by no means follows that Congress must do it. Congress has the power to order the building of six or sixty steam frigates, and it has exercised that power so far as to order six; it does not follow that it must order the building of sixty.

The President speaks of idiocy physical diseases, and extreme destitution, and says, "If Congress may and *ought* to provide for any one of these objects, it may and *ought* to provide for them all." This is saying that if Congress has the power to do one thing and does it, then Congress is bound to do everything else that it has the power to do. Now, I may think that Congress may and ought to declare war against Spain—and if she does it, I should by no means conclude that she may and ought to declare war against England. If Congress has the power to give, it may give to a class stricken mysteriously by an inscrutable Providence, without imposing on itself any sort of obligation to give to those who have fallen victims to their own bad passions, or to the lazaroni who have been or may be poured upon our shores from the jails and pest-houses of the old world.

The argument of the President, it seems to me, amounts rather to a strongly expressed apprehension that the power may be abused, than to a logical conclusion of its non-existence. The fear that a power may be abused may justify a cautious use of it, but it will not prove that it does not exist. The power to declare war is one of fearful import; it may be absurd. Congress may declare war against England; to-day it would be an abuse of power; but it would not prove that the power did not exist, and notwithstanding its abuse to-day, it may be rightfully used to-morrow.

The President tells us he will not discuss the question of power sometimes claimed under the general welfare clause of the Constitution, because he conceives the question of power under that clause to have been well and wisely settled. He thinks Congress has the "power to lay and collect taxes, duties, imposts, and excises," *in order* "to pay the debts"—and *in order* "to provide for the common defence and GENERAL WELFARE." In all this I quite concur with him; but as no one, to my knowledge, ever claimed authority under this clause of the Constitution to pass this bill, and as the President's remarks on this point do not seem to me to meet the argument as presented by the friends of the bill, I do not clearly perceive the purpose for which they were introduced.

I cannot but think the President gives a wider range to his fears than the facts warrant, when he says :—

“ If the several states, many of which have already laid the foundation of munificent establishments of local beneficence, and nearly all of which are proceeding to establish them, shall be led to suppose, as they will be should this bill become a law, that Congress is to make provision for such objects, the fountains of charity will be dried up at home, and the several states, instead of bestowing their own means on the social wants of their own people, may themselves, through the strong temptation, which appeals to states as to individuals, become humble suppliants for the bounty of the federal government, reversing their true relation to this Union.”

I have a better opinion of the states than is here indicated. In my opinion “ the fountains of their charity ” are not more likely to be “ dried up ” by grants of land for the benefit of the insane, than is their passion for learning to be extinguished by similar grants for school purposes ; nor is a state more likely to become “ an humble suppliant for the bounty ” of this government, when she receives a small quantity of land for the relief of suffering humanity, than she is when she receives a larger quantity for internal improvements and other purposes. We have seen that grants of land for school purposes have not “ dried up ” the passion for learning in the states, but have stimulated it, and caused it to flow in a steadier and a bolder stream ; and though our tables literally groan under memorials from state legislatures, praying for lands in aid of their several railroads and other local projects, we have accustomed ourselves to think it all right, and the states have remained in blissful ignorance of the fact that they were fast becoming “ humble suppliants for the bounty of the federal government.”

Passing from this part of the message, we come at once to the President's comments on the third section of the fourth article of the Constitution. It is from this section that we derive our authority to pass this bill. “ The Congress shall have power to *dispose of* and make all needful rules and regulations respecting the territory or other property belonging to the United States.” Such is the language of the instrument ; and if its terms are not limited by some other language in the same instrument, it seems to me there can be no doubt that we may *DISPOSE OF* the land for the benefit of the insane. The President has recourse to the sixth article of the Constitution, to wit : that “ all debts contracted and engagements entered into before the adoption of this Constitution, shall be as valid against the United States under this Constitution as under the Confederation.” This article, he thinks, limits the powers we might otherwise have under the third section of the fourth article.

Now, sir, this power to dispose of the public lands is a clear, distinct, separate, and substantive grant of power, not dependent on anything else, and not the incident of any other grant. The sixth section of the Constitution, in my opinion, imposes no limitation on the grant. The “ contracts and engagements entered into ” before the adoption of the Constitution, and which were declared to be “ as binding on the United States under the Constitution as under the Confederation,” referred not to the deeds of cession from Virginia, Massachusetts, New York, and North Carolina, but to other and very different contracts and obligations. They refer more especially to the “ contracts and obligations entered into ” by the Continental Congress for the support of the army of independence ; and as the structure of government was undergoing a change,



it was meant to impose on the new constitutional government the debts, contracts, and engagements of the old Continental Government. Something of this kind was necessary to secure the creditors of the government against loss, and to give assurance to the world that the public faith should be preserved.

I do not, myself, see the limitation which the sixth section imposes on the third section of the Constitution. But the President does. He does not, it is true, say in terms, that one of these sections limits the other. But he introduces arguments to prove it, by asserting, in substance, that the "contracts and engagements" referred to in the sixth section of the Constitution, had special reference to the deeds of cession from Virginia and other states to the United States, and the obligations therein imposed; and that a strict observance of these obligations is inconsistent with the idea of "disposing" of the lands by gift. I might, perhaps, successfully protest against being required to construe the Constitution by an instrument which, though cotemporaneous with it, is not a part of the Constitution, and is not necessarily connected with it. The Constitution ought to be construed, interpreted, and administered by what is written on its face; and where the writing admits of one, and only one, clear and distinct interpretation, that interpretation ought not to be destroyed or nullified by a resort to extraneous matter.

But, I want to meet the question fully and fairly, and in every one of its presentations; and therefore, I admit, for the sake of the argument, that the President may be right. The deeds from all the states, I believe, are substantially the same. The President introduces the one from Virginia, and for the reason, I presume, that it meets the point made by him more fully than any of the others. It was executed in 1784, and its material part is as follows:—

"That all the lands within the territory of the United States, and not reserved for or appropriated to any of the before-mentioned purposes, or disposed of in bounties to the officers and soldiers of the American army, shall be considered *a common fund for the use and benefit of such of the United States as have become, or shall become, members of the Confederation or federal alliance of the said states, Virginia included*, according to their usual respective proportions, in the general charge and expenditure, and shall be faithfully and *bona fide disposed of* for that purpose, and for no other use or purpose whatsoever."

The President, as I understand him, takes the ground that the stipulations of this deed are part and parcel of the "contracts and engagements" alluded to in the sixth section of the Constitution; and that the attempt to give ten millions of acres of land to the indigent insane being in violation of these stipulations, is consequently in violation of the sixth section of the Constitution, and, therefore, void. I think this a proper conception of the President's position. I know that I have meant to state it fairly.

Now, sir, suppose that this deed was actually a part of the Constitution; that instead of having the power to dispose of the lands without limitation, as I think we have under the Constitution, we had only the power to use them as a *common fund for the use and benefit of such of the states as belong to the Union, Virginia included*, could we not even then pass this bill? Do we propose to employ this common fund otherwise than for the use and benefit of all the states? The lands are spoken of as a common fund in the deed. These lands or common funds to the amount of ten millions of acres, we propose to divide

among the several states, in a compound ratio of geographical area and representation in the House of Representatives. Now, if we so use them, is not the use for the benefit of all the states of the Union, Virginia included? Mark you, the language of the deed is, that the land "shall be considered as a common fund" for the use and benefit of all the states. When you take a part for the use of schools in a few states, another part for the use of railroads in other states, and another part for the use of swamp drainage in other states, as you have done time and time again, are you employing a common fund for the use and benefit of all the states? Of what use or benefit is a common school in Mississippi to the state of New York? And how is Massachusetts benefited by draining a swamp in Arkansas? If there be a resulting use and benefit to the old states, in giving lands to the new states, how much more apparent will this use and benefit become, if you give the lands directly to the old states themselves!

To my mind this is the first land bill ever brought forward in the true spirit of the deeds of cession. It is the first bill that ever proposed to divide the land among the states having in them a common interest, share and share alike. The bill, to say the least, embodies an equitable principle. It awards a *common fund* among the parties in interest, and says in plain terms to the old states, and to the new, that which we hold for the use and benefit of each and every one of you, shall not be employed for the use of one to the exclusion of another.

But, admitting this interpretation of the deeds to be correct, what becomes of all the lands acquired by conquest and by purchase? They certainly are not under the control of the deeds of cession from Virginia, Massachusetts, New York, the Carolinas, and Georgia. All the territory west of the Mississippi river, including Oregon, Washington, Utah, and New Mexico, and the unsold lands in Louisiana, Arkansas, Missouri, and other states west, was acquired otherwise than by those deeds of cession. Is the power of Congress more ample over these lands than over the unsold lands in Mississippi, Alabama, and the other states lying within the cessions from the old states? It must be so, or else the whole argument based on these deeds falls to the ground. For by no torturing of language can a deed from Virginia or Massachusetts be made to cover lands bought from France or Spain, or conquered from Mexico.

I am a new state man, and I am a just man. And I now say to the new states, you have no right to take from the common fund for colleges, for schools, for railroads, for swamp drainage, and for other special purposes of your own, and then say to your older sisters, you shall have no part for any purpose of yours. The old states having a common interest in a common fund, have said to their younger sisters, take from this fund for colleges, schools, railroads, swamp drainage, and for other purposes, and we have taken accordingly. Shall we now say to them it is unconstitutional for you to take for any purpose. Can we say so in honesty and in good faith? Can we receive for our schools and deny to the old states for their asylums? And if we do, will it not look as if the violation of the Constitution consisted, not in using the common fund for the particular purpose designated in this bill, but rather in its application to the use and benefit of the old states? Who doubts that it is just as constitutional to endow a lunatic asylum in

Mississippi as to endow a college or university in that state? Who questions that if Congress may give lands to Illinois to educate sane children, it may give lands in the same state to protect insane children? And can it be that Congress may apply "a common fund" held for the use and benefit of all the states, to the use and benefit of new states, to the exclusion of the old states? This must be assumed as true, or else it follows irresistibly that the lands being the common fund, and it being constitutional to give to Mississippi and Illinois, it is equally constitutional to give to North Carolina and Virginia. And then again, unless it shall be shown that it is unconstitutional to endow a lunatic asylum *per se*, it will follow that if you can give to a college in Alabama from the common fund, you may give to an asylum in Delaware from the same fund.

I think it hardly necessary to dwell upon the argument of the President, based on the pledge of the government to devote these lands to the payment of the public debt. With an overflowing treasury, and the government constantly seeking sources of expenditure, it will hardly strike the bondholders or any one else, that there is a violation of faith in disposing of these lands in the mode proposed. If any of the bondholders feel uneasy about the securities, they have only to present their bonds at the treasury and receive their money.

The same argument employed by the President now, was employed by others when the bounty land bill was under consideration, and with greater force than now, for at that time the public debt was more than twice its present size, and we had an empty treasury. It did not avail then, and I know of no reason why it should do so now.

The President respectfully submits, that, in a constitutional point of view, it is wholly immaterial whether the appropriation be in money or in land. I think differently. The Congress has no power to dispose of the money but for purposes named in the Constitution. It has the power "to dispose of" the land for purposes that are not named in the Constitution. It follows that Congress holds its authority over the money by one tenure, and its authority over the land by another, and so I apprehend it has always been considered. Jefferson, Madison, Monroe, Jackson, and Polk, have all signed bills giving lands to roads, canals, schools, colleges, and other objects that were purely local in their character, and does any one suppose that either of them would have approved bills appropriating money to these objects?

The purposes named in the Constitution for which money may be used are to *pay the debts* and to provide for the *common defence and general welfare*. The President's reading of the money clause is correct. He reads it thus: "The Congress shall have the power to lay and collect taxes, duties, imposts, and excises, *in order* to pay the debts, and *in order* to provide for the common defence and general welfare." Congress does not provide for the *general welfare* when it takes charge of a *local interest*, whether it be a road, a school, or an asylum. Objects that are *general* and not local may alone receive the patronage of the government under the money clause.

The framers of the Constitution clearly intended that the national exchequer should be supplied by taxes, duties, imposts, and excises, and as no provision was made for raising money from the sale of lands, and no purpose designated to which the money, when raised from such

sales, should be applied, it may be well questioned whether it was ever contemplated that the lands should be sold. I know that the deeds of cession from Virginia and other states point to objects for which the money may be applied, but I speak now of the Constitution and not of the deeds of cession.

When, however, the lands are sold and the money is paid into the treasury, it becomes part and parcel of one treasury, and can only be used as money raised from taxes, duties, imposts, and excises may be used, *in order* to pay the debts, and *in order* to provide for the common defence and general welfare. Before it is sold, while it is yet land, it may be disposed of not alone to pay the debts, and not alone to provide for the common defence and general welfare—there are no such words in the land clause of the Constitution—but it may be disposed of for any purpose not inhibited by the Constitution. It is one thing to dispose of the money *in order* to pay the debts of the government, and it is another thing simply to dispose of the public lands. I respectfully submit, therefore, that the President is mistaken in supposing that Congress has the same power to appropriate money that it has to appropriate land.

Indeed, the President admits, in the very next paragraph of the message, that there is *some* distinction between property in land and property in money. Speaking of the public domain he says:—

“As property, it is distinguished from actual money chiefly in this respect: that its profitable management sometimes requires that portions of it be appropriated to local objects, in the states wherein it may happen to lie; as would be by any prudent proprietor to enhance the sale value of his private domain. All such grants of land are, in fact, a disposal of it for value-received.”

It is here distinctly avowed that a portion of the land may be so applied as to increase the value of the remainder. In other words, that a section of land may be given to a railroad, if the gift enhances the value of the adjoining section. Now, if there is no difference between appropriating land and appropriating money, and you may apply a thousand acres of land to a railroad because you thereby double the value of another thousand acres, I respectfully inquire why we may not apply a thousand dollars in money, if the effect should be to render another thousand or the same thousand of double value. Recollect you have the power, according to the message, to give the lands only, because the gift increases the value of other lands, and the President sees no difference between giving lands and giving money. It follows, therefore, if giving money will have the same effect in increasing the value of money that giving land will have in increasing the value of land, you may give the one or the other as you please. It thus becomes a simple question as to whether you will invest land or money.

With the same power to appropriate money as land, the President, I dare say, would not approve a bill appropriating money to construct a railroad in a state, though that road might make all the land within six miles of it of double value, and yet he would approve a bill appropriating one-half the land to the same road, simply because, the road being constructed, the other half is double in value. By giving money and building the road you get double price for all the land and have the road into the bargain. By giving land to a company you only get double price for half the land and have no road. The power to give

the one being equal to the power to give the other, it would seem best to give the money.

It appears to me, Mr. President, that we are likely to be involved in a labyrinth of difficulty and perplexity, for the simple reason that we have neglected to observe properly the distinction which the Constitution itself makes in our powers over the land and over money. The one we may dispose of for purposes which are not named; the other we may dispose of for purposes which are named, to wit, to pay the debts and provide for the common defence and general welfare.

The President, after speaking approvingly of the land grants heretofore made to the new states (and for which I thank him very cordially), adds, "all such grants are in fact a disposal of it for value received." This brings me to the consideration of a material point in this argument. Grants have been made, as I have said, more than once, to roads, canals, colleges, schools, and other objects in the new states. All such grants, we are told, have been for value received. Value received from whom? Not from the grantees? To them the grant was a naked, unqualified gift; they paid nothing, did not promise to pay anything, and did not guarantee that anybody else should pay anything. They were gifts in the broadest, fullest, and most comprehensive sense of the term. They were lands conveyed in fee simple to parties who paid nothing. The consideration, the value, if any was ever received, came from other parties than those to whom you gave the land. Now, we either had the power to make these gifts, or we had not. If it exists in the Constitution, we have it independent of any consequences or results that may follow its exercise. The fact that one section of land is doubled in value, by giving away another section, may be a very good argument to justify the use of an actual existing power. But, I submit that it does not and cannot by possibility supply a power that does not already exist. If I have no power to give one section, it is useless to tell me how much the gift will enhance the value of the next section. My answer simply is, I have no power to give at all. If I have the power, then it may be very well to urge as an argument, to justify the use of it, that if I give one section I make the next one worth as much as both.

If Congress has the power to give lands to railroad companies (and I think it has), it may exercise the power at discretion. But, if it has not the power, it is difficult to perceive how it is obtained by simply charging a *bona fide* purchaser double price for the lands you sell him. To give as a reason for charging a settler two prices for his home, that you have given lands to a railroad company, is bad enough in all conscience; but to assert that Congress obtains a constitutional right to give lands to railroad companies, by the simple process of charging the squatters two prices for their homes, is hardly respectful to the human understanding. If we have the power to give, it exists as an independent substantive proposition; and if we have not the power it is not acquired by any argument however plausible, or any legislative expedient however cunningly devised.

The President regards the bill as appropriating ten millions of acres of land to an eleemosynary purpose, within the limits of the states, and he questions the warrant of the Congress to make such an appropriation; not because it is made for an eleemosynary purpose, as I understand him, but because it is made for such a purpose within the limits of the

states. This is evident, as I have before said, from the fact that in the very next sentence he admits that, within the District of Columbia we may make appropriations for eleemosynary purposes.

The argument, then, is not that you cannot make an appropriation for the benefit of insane asylums because they are asylums, but because they are state institutions. Now, let us test the soundness of this logic, by what appears in the message elsewhere. The President says, on page six of the printed paper, that the profitable management of land may sometimes require us, as prudent proprietors, to appropriate a part of it to *local objects in the states* where it lies. That the mind of the President in penning this sentence was directed to the land grants heretofore made for railroad, college, school, and swamp purposes in the states, there can be no question. Has Congress any more right to patronize, by a gift or grant, a railroad, a school, or college, or to drain a swamp, in a state, than it has to patronize, by a gift or grant, a lunatic asylum in a state? What is the difference between patronizing an eleemosynary institution in a state, and a common school or college in a state? One is purely local, and so is the other, and one is no more specified or provided for in the Constitution than the other. If Congress may patronize by a gift an eleemosynary institution in this district, as the President admits, it may do the same thing in a state, *unless* there is something in the relations between the states and the Federal Government that forbids it. And I submit, with diffidence and respect, that if there be anything in that relation which forbids us to patronize an eleemosynary institution in the states, there must be that, also, which forbids our patronizing a college in a state. If it be said that the college is exclusively under the control of the state, I reply that the eleemosynary institution is also exclusively under the control of the state.

If Congress may give lands to railroads, schools, colleges, and other purely state institutions, there can be nothing in the argument that lands cannot be given to asylums or other institutions, simply because they are within the limits of the states.

The President lays great stress on the assumed fact that we are only authorized to dispose of the lands as a prudent proprietor would dispose of his own estate. Very well; let us examine the soundness of this position. I have never asserted, myself, that the United States was the proprietor of the land; I have only maintained that she was the trustee of the states. If she is the proprietor, it needs no argument, it seems to me, to prove that she may give, or sell, or lease, or abandon, as she pleases. But if she be a trustee, then I grant that she must administer the estate as a prudent proprietor would administer his own property.

We have seen in the past that lands have been given to various purposes, and the President gives us plainly to understand, that as a prudent proprietor he would approve of the gifts, and say that Congress had the power to make them. Now, suppose that the President was the prudent proprietor of a million of acres of land in Wisconsin, and that he had appointed my friend, the senator from that state [Mr. Walker], his trustee, with power to dispose of the lands as a prudent proprietor would dispose of his own estate. The senator sells a part at auction and some at private sale, and the President approves his acts, saying, "that was prudent; you had the power to do that." He gives some to a railroad, and the President approves that; he gives some to a college, some

to common schools, some to build a court house, and some to drain swamps; the President looks over the whole, and says: "this is as a prudent proprietor would have done with his own estate. You had the power to do all this, and I approve it." Then the senator gives a little to an insane asylum; the President says: "I must *resist the deep sympathies of my heart in behalf of the humane purposes of this gift*. But it is not as a prudent proprietor would have managed his own estate; I DISAPPROVE IT." Now the question is, could he consistently say that? When he conferred the power to make the first grants, he conferred the power to make the last, and when he approved of its exercise in the first cases, he necessarily commits himself to an approval in the last. He may disapprove if he chooses, but not on the ground of power.

Suppose that the Constitution, instead of giving Congress the power simply to dispose of the territory, had said that Congress may dispose of the territory *as a prudent proprietor would dispose of his own estate*, who in that case would be the judge of what was a prudent disposition? Congress, unquestionably. I do not mean to say that the President could not, in such a case, exercise the veto; but I do say that he could not put it on a question of power. He would be compelled to put it on a question of expediency. He could not say that Congress had no right to give away the lands, for it often happens that a prudent proprietor does give away his own lands. He might say that giving it to the indigent insane is not a prudent disposition of it, and veto for that reason. But this, I apprehend, would raise a question of expediency, and not a question of constitutional authority. Congress has power to levy taxes. It may levy excessive taxes. But there is not a court in Christendom that would declare the act unconstitutional on that account; and why? because the abuse of power does not affect the question of its existence. I fancy, therefore, that the President, to say the least, has placed the veto on the wrong ground. Instead of denying to Congress the constitutional right to pass this bill, he ought to have assumed that its passage was an abuse of power. How far the President would be justified in interposing his judgment against the judgment of Congress on a mere point of expediency, is altogether another question. He has the power to do it if he chooses.

The President, in speaking of certain grants heretofore made, says: "All such grants of land are in fact a disposal of it for value received, but they afford no *precedent* or constitutional reason for giving away the public lands." I admit that giving to a school does not oblige us to give to an asylum. But I must insist that the same constitutional reason that would justify us in giving to one, would justify us in giving to the other. And I think, moreover, that the President is mistaken in assuming that a giving to one affords no precedent for giving to the other. If we have the same right to give to one that we have to the other, then giving to the one does afford a precedent for giving to the other.

The President assumes that, in disposing of the lands by grants to various objects, we have heretofore enhanced the value of the remaining land. I have already shown that this enhancing the value of one parcel of land cannot amplify our constitutional powers over another parcel. But suppose it could, is it true in point of fact that these grants have always enhanced the value of the remaining lands? When Congress gave two townships of land to Mississippi, and many others to the other

new states, to endow colleges or universities, what lands were increased in value thereby?—none within my knowledge. It may be that the existence of colleges and universities in the states encourages settlements, and that thereby a chance is held out that the lands will sell at a better price. And if this be the argument, I reply that the existence of an asylum for the insane is just as likely to induce settlements, and thus increase the value of the lands, as is the existence of a college to do the same thing.

I have thus far omitted to speak of the bounty land grants to soldiers in connection with this subject. Regarding that act as depending for its constitutionality on the same clause of the Constitution that justifies this, and as being in all respects more like this than any other, I have chosen to consider it separately. The bounties to soldiers were, and are, in every legal sense, gratuities, naked gifts. The soldiers entered the army on a contract to perform certain specified services for a specific sum of money. They have performed the services and received their pay, and most of them have been forty years out of the army. They had been paid off and discharged, thirty, forty, and fifty years ago. The government owed them nothing; and yet Congress gave them each a tract of land, forty, eighty, or one hundred and sixty acres. Was this done to increase the value of other lands? Was this justified on the ground of prudent proprietorship? Was this for the use and benefit of all the states? No, sir, no. It was done as an act of gratitude to the brave men who fought our battles. It was justified on the ground that we could dispose of the public lands as we pleased, and it was for the use and benefit of the old soldiers, and for no one else. If we could give fifty millions of acres on the score of gratitude, why may we not give ten millions on the score of charity? The grant to the soldiers met my warm approval, and had my cordial support. It was an act of *justice*, not of legal obligation. The act before us had my approval and support also. It, too, is one of justice, not to individuals, *but to states*. I defend its constitutionality on the same ground that I defended the first act, and its justice on the further ground, that it divides the land equally among the parties having a common interest, and for the praiseworthy purpose of protecting those who are unable to protect themselves.

I here leave the message, and recur for a moment to the history of this bill in its passage through the two houses of Congress. It has twice passed the House, and twice the Senate. It first passed the Senate, February 12, 1851, by a vote of 36 yeas to 16 nays, and was sent to the House, where it was defeated by the rigid enforcement of the rules. Once the rules were suspended, yeas 105, nays 50, more than two-thirds; but the House proceeded to other business, and again, on a motion to suspend that rule, so as to allow the bill to pass, the yeas were 108, and the nays 70. It will thus be seen that in 1851 there was not only a majority of more than two to one in the Senate in favor of the bill, but a majority of about two to one in the House also. In 1852 the bill was again before the House, and passed by a vote of 98 yeas to 54 nays, almost two to one. This session it passed the Senate again, yeas 25, nays 12, and was sent to the House and there passed, yeas 81, nays 53. It will thus be seen that, before the Senate and before the House, both being Democratic by large majorities, this bill has uniformly commanded



two-thirds of the votes in one house, and nearly two-thirds in the other.

It so happened that the bill has not passed both Houses at the same session, or during the same Congress, until now, and, therefore, it was never before sent to the President for his approval.

Among the Democrats who have voted on this bill at one time, or at another, I find the names of Borland, of Arkansas; Downs, of Louisiana; Norris, of New Hampshire; Rusk, of Texas; Shields, of Illinois; Soulé, of Louisiana; Sturgeon, of Pennsylvania, and others of the Senate; and in the House, Bissell, of Illinois; Cobb, of Alabama; Gilmore, of Pennsylvania; Ingersoll, of Connecticut; Peaslee, of New Hampshire; Polk, of Tennessee; Churchwell, of Tennessee; Dawson, of Pennsylvania; Florence, of Pennsylvania; Seymour, of Connecticut; Smith, of Alabama; Harris, of Alabama; Beale, of Virginia; and many others. I mention these things to show that if there was error in passing this bill, it was an error very common among Democrats. Nor can it be said that the constitutional question was not raised. It was raised in both Houses, and as fully discussed as senators and representatives chose to discuss it. I speak on this subject after a careful inspection of the record. Mr. Borland defended the constitutionality of the bill in the Senate, and he has been sent abroad. Messrs. Soulé, Peaslee, and others of its friends, have received the highest marks of the President's consideration and confidence.

The President refers to two acts heretofore passed by Congress, which he admits furnish precedents for the passage of this bill. One of these is an act passed March 3, 1819, granting a township of land to the deaf and dumb, in Connecticut; and the other is an act passed April 5, 1826, making a like grant to the Kentucky asylum for the education of the same unfortunate class. It is worthy of remark that the lands thus granted were necessarily located outside of the states of Kentucky and Connecticut. And were in this, as in all other respects, granted, just as we propose to grant these lands, and for an object very similar to this, not, I think, so praiseworthy.

The President admits that these are precedents, but adds, they should "serve rather as a *warning* than as an inducement to tread in the same path." I entertain the highest respect for the opinions of President Pierce; but he will excuse me if I say that precedents set by such men as James Monroe, John C. Calhoun, Wm. H. Crawford, James K. Polk, James Buchanan, Wm. R. King, Edward Livingston, Levi Woodbury, Geo. McDuffie, and others, do not serve as warnings to me, unless it be the warning that the beacon gives to the mariner. Those great men were bright and shining lights; their example has illumined the path we are now treading. Mr. Monroe was president, and approved the act of 1819. Mr. Calhoun and Mr. Crawford were members of his cabinet, and all the others, as senators or representatives, voted for one or the other of the bills spoken of by the President.

If, in following the lead of Democratic presidents, Democratic secretaries, ambassadors, and senators, who have attained to the highest honors in the republic, and enjoyed the highest places in the confidence of the people, I have been led into error, I hope my error will find an easy pardon at the hands of my constituents.

I have now, Mr. President, performed an unpleasant duty. It would

have given me great pleasure to have found my vote sustained by the President; but I could neither abandon the vote I had given, nor the convictions which justified me in giving it, because the President refused to sustain what I had done. I have felt called upon to defend my course. This I have done; how perfectly, is left to time and the public judgment to decide. It has been my studied purpose to avoid everything that by possibility could be construed into an attack upon the conduct of the President. If he is right, the Constitution has been happily saved from violation. If he is wrong, time will correct his error. But whether right or wrong, I have not a word to say against the purity of his motives. He had his convictions, and he has acted on them, and I am not the man to insinuate that he has been moved thereto by any other than the highest considerations of duty to the country, and devotion to the Constitution.

## ALIEN SUFFRAGE.

SPEECH IN THE SENATE OF THE UNITED STATES, MAY 25, 1854, ON THE QUESTION OF ALIEN SUFFRAGE, IN CONNECTION WITH THE KANSAS-NEBRASKA BILL.

INTENDING to vote for the amendment of the senator from Maryland, I wish to assign very briefly the reasons why I shall do so, advertising the Senate, however, that I have no speech to make on this bill.

The fifth section of the bill provides:—

“That every free white male inhabitant above the age of twenty-one years, who shall be an actual resident of said territory, and shall possess the qualifications hereinafter prescribed, shall be entitled to vote at the first election, and shall be eligible to any office within the said territory, but the qualifications of voters, and of holding office, at all subsequent elections, shall be such as shall be prescribed by the Legislative Assembly: *Provided*, That the right of suffrage and of holding office shall be exercised only by citizens of the United States”—

Now comes the part proposed to be stricken out:—

*“and those who shall have declared on oath their intention to become such, and shall have taken an oath to support the Constitution of the United States and the provisions of this act: And provided further, That no officer, soldier, seaman, or marine, or other person in the army or navy of the United States, or attached to troops in the service of the United States, shall be allowed to vote or hold office in said territory by reason of being on service therein.”*

If the section passes as it stands, it is, beyond all question, that foreigners in the territory, and not being in the service of the United States, may vote, no difference what may have been their character abroad, or what their inducement to come here—however discreditable to the country from which they came, they have nothing to do but to make a bare declaration of their intention to become a citizen, and take an oath to support the Constitution, to entitle them to vote; while American citizens, who have been so from their birth, and whose characters are above reproach, if they are in the military service of their country in these territories, will, by the same act, be denied the right to vote. I ask

senators to pause before they legislate to give foreigners rights which are denied to our own citizens upon American soil. How will this act operate practically, if you pass it in the words in which it now stands? The officers commanding your army, the soldiers who are serving under your banner, and who are placed upon your frontiers to defend your women and children from the tomahawk of the savage, will be denied the elective franchise, while the thousands and tens of thousands who are pouring upon our shores from every part of God's habitable globe, will be entitled to that sacred privilege. Why, sir, if Santa Anna should be expelled from Mexico to-morrow, as he may be, and should take up his residence in one of these territories, he may vote the day after he gets there, if this bill passes; and Winfield Scott, whose name is emblazoned on every page of his country's history, and whose impress is on every battle-field from the St. Lawrence to the city of Mexico, if he was there stationed at the order of the President, would not be allowed the same privilege. I ask honorable senators if it is not so, that by the proposed legislation we are about to say to the General-in-chief of the American army, you shall not vote in a territory conquered by your arms; and to the deserter from the enemy's camp, you may vote! Shall we do this? Shall we say to the venerable soldier who has served his country for forty years, who has fought more battles, and fought them better than any living man, shall we say to Winfield Scott, who, whatever may be his faults as a politician, deserves his country's gratitude, you shall not vote in Kansas or Nebraska; and then shall we say to the outcasts of the Old World, to the wanderers and vagabonds, to the prison-birds and spawn of infamy, you may vote? I hope not. Let no man charge that I am hostile to foreigners. We invite them to our shores, and I would receive them kindly and treat them generously; but when I am asked to stand up in the American Senate and give to foreigners the right of suffrage, and in the same breath deny it to American citizens, I say plainly I cannot do it.

I have heard before of putting foreigners on equal footing with Americans, but this is the first time when I have been called upon to give them an advantage. And what is the reason assigned? Look at the bill. No officer or soldier of the army shall be allowed to vote in the territory by reason of his being on service there. It is sufficient for his exclusion from the polls that he bears his country's arms, that he encounters the dangers of the camp, and the perils of the battle-field. But a foreigner—what of him? He may spurn your arms, insult your flag, spit upon your laws; and then say he means to become a citizen, and swear to support your Constitution, and you let him vote. A thousand soldiers, with Scott or Wool at their head, may be ordered to Nebraska the day after this bill passes, and not one of them can vote. By reason of being on service in the territory they are excluded; while a thousand foreigners, just landed, may vote, and the next day abandon the territory for ever. For, mark you, they are to declare their intention to become citizens of the United States—not of Nebraska. Just think of Scott or Wool, at the head of a thousand Americans, guarding a thousand Irish or Dutch against Indian assaults while they vote, and then guarding them on their march out of the country, and hear Pat or Haunce blessing this land of liberty, where foreigners vote and Americans look on in silence!

I am told, sir, by way of alarm on this subject, that if the bill is sent back to the House it will be lost. I have had no evidence of that; and if I had, I would not be so alarmed as to do that which my judgment does not sanction. I am here as an American senator, to vote upon my responsibility; and I must do it with the aid of such lights as are before me. Mr. President, we are to-day making up a record which will be looked to by coming generations. What do we every day? Why, sir, we go back to the records of the past, and inquire what those have done who went before us? Do we always examine into the reasons which influenced the votes? No, sir. Senators get up and say, on a question which they claim as a precedent, so many voted in the affirmative, and so many in the negative. When the present passes away, this vote will be recorded against you; and you will be told, that here, on the 25th day of May, in the year of our Lord one thousand eight hundred and fifty-four, the American Senate, deliberately, upon a motion to strike out this provision, refused to do it by so many yeas to so many nays, thereby declaring to all the world, that foreigners may vote on a bare declaration of *intention* to become citizens of the United States and an oath to support the Constitution; while a citizen soldier may not, by reason of his being in his country's service, do the same thing. This is the precedent you are making to-day. The Chinese have a proverb, That curses, like chickens, come home to roost. I pray that this precedent may not come home to us, in after time, with the double power of a political curse.

Sir, the interests, the rights, the honor of my constituents are to be put at hazard on this vote. I have already said our own citizens, if they are soldiers, will be denied the right to participate in the proceedings in these territories in any manner, shape, or form. If we have a thousand American citizens there, and they happen to be soldiers, they are to stand off and see their rights and interests committed to foreigners. These foreigners may have no interest in your country, may not have read its Constitution, and may be wholly incapable of feeling any attachment for our institutions. I call upon senators to reflect before they proceed further in this business. I tell you this record will be brought up in future time, just as the records of our ancestors are brought up now; and our descendants will be told that, because we did this to-day, they may do it in all time to come. I am not unbalanced by this appeal to our fears. The House of Representatives may not do its duty; but that does not prove that we must fail to do ours. I intend to do my duty, and if others fail to do theirs, let each member be responsible to his conscience, to his constituents, and to his God.

Again, I have been told that a certain class of senators will now vote to strike out this provision, though they sustained it before, with the view of embarrassing the bill. I do not know what these gentlemen mean to do. I am not in their company or confidence. I have had no consultation with them; but they will show that on this, or on a former occasion, they failed of acting from conscientious convictions, if they give the vote suggested. When the motion was formerly made by the senator from Delaware [Mr. Clayton], they all voted against it; and if they go for it now, merely that they may embarrass the bill, their motives will be subjected to severe criticism. I do not believe they will; I know nothing about it; but, whatever they may do, I mean, as I said

before, to discharge my duty as an American senator. I want these abolition gentlemen to understand distinctly that I am not to be chased about from one side of the bill to the other, just as they think proper to shape their course. If I vote for a proposition and they against it, when they come in favor of it I am not bound to be against it—there is no consistency in that. While I arraign the motives of no man, call no man's motives in question, I think there is precious little judgment in acting on a policy of that kind. Let us all act upon our honest, conscientious convictions of what is right.

I said, in the beginning, that I had no speech to make on this subject, and I have none; but I cannot reconcile it to my sense of right to vote for a proposition which gives to a foreigner, I care not who he may be, or under what circumstances he may come to our shore, the right to vote in these territories, and then deny the same right to any American citizen who may happen to be in the territory in the service of the country as a soldier or officer in the army. I will not, I cannot do that. I do not say that if the amendment fails I shall vote against the bill. Ever since I came into Congress I have been the firm and steadfast opponent of this Missouri restriction. Nay, sir, ever since I raised my voice as a politician, from my earliest service as a public man, I have warred against the measure as a great and monstrous outrage upon the Constitution of the United States, and upon the rights and honor of the southern people. I am prepared to make many and very great sacrifices to get clear of this odious restriction; to vote for many things of which I cannot approve, by way of getting clear of it. But I am here asked to retain this alien provision; and the vote is to be taken on this proposition separately and distinctly. It stands by itself, and is to be valid, to the exclusion of everything else. Now, our votes are to stand in all after-time as an indication of our sentiments on this particular section of the bill, separately and distinctly. Is it right in itself, and by itself? That is the question; and honorable senators will see at once that it is a very important question.

I know very well that frequently a bill like this, covering, as this does, thirty-seven pages of printed matter, and making in one of our daily newspapers some seven or eight columns, may pass without every member being able to scrutinize and examine every provision in it; but when a matter of this sort is brought up in bold relief before you, with a clear and distinct proposition to strike out a particular section, and the mind of every senator is drawn distinctly to the language of it, it must be some great, powerful, overruling influence which would justify any senator in refusing to give his vote to strike it out, if, in his heart, he thinks it wrong. I have seen no such influence. I apprehend that, if the bill goes back to the House of Representatives, they will either agree or disagree to our amendment. If they disagree to it, a committee of conference is the necessary consequence; and if, in the end, we must yield sooner than lose the bill, that will be another proposition. Without a single member of the House being committed on this question in any shape or form, so far as the voting shows, am I to be told that I must swallow this bitter pill, gulp it down, and not say a word against it, for fear of endangering the success of the bill? I feel none of that sort of apprehension; for you have the balance of this year before you in the Senate. There is no press of time. The session is not going to

close in two or three days, and thus cut us off in the midst of our deliberations on this or other questions. I have heard no reason assigned yet why this bill may not as well pass with this provision stricken out as with it in. All these things whispered around the chamber, which we hear outside of the debate, will be lost to posterity, and nothing will remain of this transaction but the votes which we put upon the record. I put my vote there. I want it to be a vote I can stand by to-morrow, next year, and the year after, and which my children can stand by when I shall be in my grave.

It is said the bill will certainly be lost if it goes back to the House. I do not believe it. There is not one particle of evidence to sustain it. Its friends are in a majority there; and if they are not, the bill ought not to pass. If the bill were ten thousand times better than it is, I would not have it become a law against the will of a majority.

I shall, for the reasons stated, and without detaining the Senate longer, vote for the amendment, but with no purpose to destroy the bill. I have given as much evidence as most senators that I am its friend. Things have been put into it which are objectionable to me. I have never denied, every one knows, that the proviso moved by the senator from North Carolina [Mr. Badger] was distasteful to me. The amendment proposed by the author of the bill was not exactly to my notion. I took it all, however, and went for the bill. But when I am asked, by a separate and distinct vote, to sanction the kind of legislation embodied in this particular section now proposed to be stricken out, I must have stronger reasons than any I have yet heard, or I will refuse to do it. To vote for this section by itself is one thing; to vote for it along with the repeal of the Missouri restriction is another, and very different thing.

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## THE KANSAS BILL.

CONCLUDING REMARKS ON THE KANSAS BILL, IN THE SENATE,  
MAY 25, 1854.

It now lacks only ten minutes of eleven o'clock. Of course I do not intend, at this late hour, to detain the Senate with any further remarks on this bill; nor do I design to offer any amendments. But I do not mean that the bill shall pass without my saying to the Senate and to the country that there are two amendments which I intended to have proposed if the Senate had not already indicated, in distinct terms, that it is resolved to pass the bill in its present form. I am not going to run counter to the sentiment of the Senate; but when I have a clear and distinct opinion upon any subject, I am willing to express that opinion before the Senate and before the world; and having a clear conviction upon my mind that there are at least two defects in this bill, I wish, before the vote is taken, to point them out. I am willing that it may stand upon record, for me or against me, through all time, that I thought these were defects. The first is in the fourteenth section of the bill. After speaking of the Missouri compromise, it says:—

"Which, being inconsistent with the principle of non-intervention by Congress with slavery in the states and territories, as recognised by the legislation of 1850, commonly called the compromise measures, is hereby declared inoperative and void."

I intended to move to strike out the words which relate to the compromise measures of 1850 from the word "with," in line twenty-three, to the word "is," in line twenty-six, and insert "the Constitution of the United States," so as to make it read: "which, being inconsistent with the Constitution of the United States, is hereby declared inoperative and void." I would much rather stand by the Constitution than by the compromise. I have much more respect for the Constitution than for the compromise. I need not say that I never have been for that compromise, am not for it now, and never expect to be for it. I have been for the Constitution, am for it now, and ever expect to be for it. I acquiesce in the compromise of 1850, just as we all did in the compromise of 1820, without approving it.

The next amendment which I intended to propose, was an addition to the proviso moved originally by the senator from North Carolina [Mr. Badger]. I will read that proviso:—

"*Provided*, That nothing herein contained shall be construed to revive or put in force any law or regulation which may have existed prior to the act of 6th March, 1820, either protecting, establishing, prohibiting, or abolishing slavery."

I intended to move to add these words:—

"And that no law of Congress, or law or decree of any foreign government in force on the 1st day of August, 1850, shall be so construed as to *protect, establish, prohibit, or abolish* slavery in any of the organized territories of the United States."

It will be seen at once that my object would be to extend the terms of the proviso moved by the senator from North Carolina to all the organized territories of the United States. I have not seen, I do not now see, any reason why we should make a distinction between Kansas or Nebraska and Utah or New Mexico, between Kansas or Nebraska and Washington or Oregon. Slavery is prohibited in Washington and Oregon by the direct action of Congress. It is as positive legislation on the part of Congress as was the act of 1820. It was approved by a Democratic president; but it never received the sanction of my vote. Then, sir, if the laws of France or Spain, in force in Kansas and Nebraska at one time, clearly and distinctly protecting slavery, are to be repealed, I know of no reason, founded in sound judgment, why we should not apply the same rule to Utah and New Mexico, and repeal the Mexican law abolishing slavery in those territories.

If it be true that the act of 1820, prohibiting slavery north of 36° 30', and in the country now called Nebraska, has become inoperative and void, I know of no reason why the same thing has not occurred in the country north of the same line, and known as Oregon and Washington. If Congress had no power to pass the prohibitory act of 1820, excluding slavery from Kansas and Nebraska, it had none to pass the more recent act of 1849, excluding it from Oregon. If we are called upon to repeal the first, we are equally called upon to repeal the last.

And again, if it is right to declare that the laws in force prior to the 6th of March, 1820, *PROTECTING*, prohibiting, establishing, or abolishing slavery in Kansas and Nebraska, shall not be revived, the truth being that these laws did *protect* slavery, I know of no reason why the laws

existing prior to 1850, either by Mexican legislation, as in Utah and New Mexico, or by our own legislation, as in Oregon and Washington, should not be repealed, the fact being that these laws *prohibit* slavery. I want to see the laws in all the territories reduced to a uniform standard on the subject of slavery.

I shall not, at this late hour of the night, when I know that senators are impatient to take the vote, press these considerations upon the Senate. But I cannot forbear saying that, with these two amendments, the bill would have been much more acceptable to me than it is in its present form. With them, and with the amendment which has just been voted down, it would be entirely acceptable to me. I have voted in favor of the amendment of the senator from Maryland. I now look upon the provision which it proposed to strike out, as I look upon other provisions in the bill, as pernicious. The provision does not meet the sanction of my judgment. But, sir, there is a great overruling and controlling principle established in the bill, which commands my vote in despite of all the objectionable features embodied in it; and that is, that it proposes to abrogate the odious Missouri restriction—a restriction which, six years ago, and as often as I have had occasion to speak of it since, I declared to be in violation of the Constitution, in derogation of the rights of my constituents, and an insult to the whole southern people. By no deed or word of mine can I sanction, or seem to sanction, the continuance of that act upon the statute-book. I shall, therefore, notwithstanding its objectionable features, still vote for the bill. I think it is due to myself, and not at all disrespectful to gentlemen who disagree with me, to say, that with the amendments I have suggested, the bill would be more acceptable to me than it is in its present form.

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## ALIEN SUFFRAGE.

SPEECH IN THE SENATE, JULY 10, 1854, ON ALIEN SUFFRAGE.

MR. PRESIDENT: I may vote against striking out this section. I rather think I shall; and I wish to submit one or two observations in explanation of my present views. I do not put the construction upon this section which other senators have placed upon it. My reading of it is not the same as theirs. It provides:—

“That if any individual, now a resident of any one of the states or territories, and not a citizen of the United States, but, at the time of making such application for the benefit of this act, shall have filed a declaration of intention, as required by the naturalization laws of the United States, and shall become a citizen of the same before the issuance of the patent, AS MADE AND PROVIDED FOR IN THIS ACT.”

“As made and provided for in this act.” Take that language in connection with the rest of the bill, and what do we ascertain? The bill elsewhere provides that the patent shall issue at the expiration of five years. It is “made and provided” that it shall do so. It is clear to my mind that if an alien born seeks the benefits of this act, he can obtain them only on the condition of his perfecting his citizenship in the



five years. The act only proposes to hold the land in reserve for him five years. In that time he may complete his citizenship, if he chooses. If he fails, he loses all rights under the act. He cannot receive the title, because, having had the opportunity of becoming a citizen competent to receive it, he has voluntarily declined doing so. The means are "made and provided" for him; and if he rejects them it is his own fault.

I think the construction placed upon the section by some senators, that a foreigner may continue to reside on the land without becoming a citizen, is not sustained by the language of the section. If he has filed his declaration of intention to become a citizen, and shall actually become so within the five years, a patent shall issue to him, just as though he were a native-born citizen. That is all that the section means, according to my reading of it. If he fails to become a citizen, at the expiration of the five years, he cannot receive the title, and government, having complied with its part of the engagement, may, and doubtless will, sell the land to any one else who may offer himself as a purchaser.

Now, sir, a few words as to granting lands at all to foreign-born people. I am, perhaps, as much opposed as any gentleman in the Senate to conferring political rights on foreigners, as long as they are such; but when they have been naturalized, when they have been, by our laws, placed upon the same footing with American-born citizens, then, and then only, am I ready to admit them to all the rights of citizenship. But, sir, during this session of the Senate we have made a very marked exception to that general rule. We have, by the almost unanimous vote of the Senate, authorized, in the two important territories which we have just organized—Kansas and Nebraska—foreign-born people, who are not yet citizens, to vote, and we have admitted them to all the political rights of our own native citizens. And now, sir, shall we hesitate when we are asked simply to allow these same people to settle upon a piece of public land? How can the mere fact of a foreigner settling upon a bit of land affect the political prosperity or property of the country? How is it going to affect the political rights of our people? His settlement there does not give him the right to vote; it does not give him the right to hold office; it confers upon him no political authority. And as far as the mere occupancy of the soil, it no more affects the rights of native-born citizens, or the political rights of the country, one way or another, than if the man were back in Germany or in Ireland. It is the right of suffrage, the right to vote, and to hold office by the votes of other foreigners like himself, that interferes with our people and our politics.

We get a marked advantage from having laborers employed on the public lands; and the labor of a foreigner is quite as productive as though he were a native-born citizen. Every bushel of corn that he raises, every bushel of wheat, every ounce of produce of every kind which he makes by his labor, enters into the general wealth of the nation, and to the same extent as though he were a native-born citizen. Then, I say, that so far as this bill goes, you grant him no right except the mere right of occupying the land and cultivating it; and, in return for this, he gives you all that a native-born citizen would give you; he gives you the products of his labor as an addition to the general wealth. I cannot, myself, see the propriety of first admitting foreigners to all the

political rights of American-born citizens, and then stopping short when you are only asked to allow them to occupy and cultivate the wild lands of the West. If they are fit to vote and hold office, I hardly think we shall be seriously damaged by allowing them to mingle their labor with the soil which we allow them to govern. If they do any part of the voting, I am for getting as much work out of them as possible; and if they have a fancy for cultivating the soil, I am clear for letting them do it.

I think there is a manifest propriety, when you have admitted a man to political rights, that you should provide for him in some way a home; and that, too, at the cheapest rate at which it can be supplied. What is your interest, sir; what is manifestly your interest towards these people whom you have allowed, by your legislation, to vote in Kansas and Nebraska; and, I believe, in all the other territories? It is to settle them down, to make them permanent inhabitants of the country, to stop their roving disposition, to get them out of your cities and towns, and identify them as early as possible with the soil. That, I believe, is our true policy. If I could have had my way, I never would have admitted these people to political rights until they had been here long enough to learn something of our laws, long enough to learn and study and understand our Constitution; but the policy of the country, as marked out by the two branches of the legislature, and sanctioned by the President, has been different. It has been to admit them to all the rights of citizenship, so far as voting and holding office in these territories are concerned. Now, I am not going to stop short and say to a man, "though you may have the same right to vote as a native-born citizen; though you have the same right to hold office as a native-born citizen, you shall not have the same right to occupy the land; though you may govern, you shall not occupy the soil." I see no propriety in this—no reason for it. Why, sir, I would rather any sort of a foreigner should occupy a quarter section of land than it should be occupied by a wolf or a bear. I would rather that any sort of a foreigner, who would cultivate it, should occupy it, than a savage. And this upon the principle which I have already stated, that his labor is just as valuable as though it were the labor of a native-born citizen. It is worth as much, and the products of it will sell for as much in the market, and go as far in subsisting the country. According to the bill, you do not give him a title until he is a citizen, and made so according to the laws of the land. When he is made a citizen, then, I say, not only in reference to this, but in reference to all other rights, I am for putting him upon a footing with natives-born.

It is said many of these emigrants are bad men; doubtless, this is true. But will he be made a better man by keeping him in a city or town? The best thing that can be done with a bad man is to put him to work, and, as long as you can keep him at it, he will be out of mischief.

Upon the broad principle that one man's labor is as good as another's in raising corn, wheat, cotton, rice, or tobacco, I am willing to see every foreigner go to work on the public lands. When he becomes a citizen in the regular way, I would admit him to all the rights of a citizen, political as well as others. I would not give him the title until he became a citizen; but if he wanted to work the land, I would tell him to go ahead. It would make a better man of him; and when he came to

be a citizen, he would love the land all the more in which he had mingled his sweat.

You committed a grievous fault when you authorized foreigners to vote and govern the country. You cannot atone for it by refusing them the right to work the land which they govern.

NOTE.—By reference to page 573, another speech of Mr. Brown on the same subject, in connection with the Minnesota Bill, will be found.

## GRADUATION BILL.

REMARKS IN THE SENATE OF THE UNITED STATES, JULY 20, 1854, ON THE GRADUATION BILL OF MR. HUNTER OF VIRGINIA.

MR. PRESIDENT: The proposition of the senator from Virginia presents, in my opinion, the most stupendous land scheme that has ever been presented to the American Congress. It proposes, by one single stroke, to give up the authority of this government, over about one billion five hundred million acres of land.

MR. CLAY. If the states will accept.

MR. BROWN. My friend from Alabama suggests "if the states will accept." That is a suggestion which it is scarcely worth making, because we know they will accept. When you have passed this bill, the authority of Congress over the public lands will be extinct in the states. I believe the territories are excluded. Now, sir, in deference to the opinion of my friends on this floor, being a new state man, coming from a state which is to derive benefits from the passage of this proposition, I shall vote for it; but here on this evening, at six o'clock, I protest, that if any evil is to come of it, it must be charged to my friends and not to myself. I have had no opportunity of investigating in detail a great scheme like this, the most magnificent and the most stupendous that has ever been brought before Congress; a scheme which it ought to take months and months to deliberate upon.

Why, sir, the proposition of the senator from Virginia has eleven sections and thirteen provisos. There are thirteen separate and distinct limitations to the granted powers. What they all mean, I say again, as a common county-court lawyer (and I never aspired to any higher reputation), I have had no opportunity of weighing and deliberately considering. I doubt whether there is a senator on this floor, except the senator from Virginia, who has had any opportunity, or, having it, has been able, in this extremely hot weather, to avail himself of that opportunity of weighing and examining this proposition as it ought to be done, considering the magnitude of the interests involved. Other schemes propose to parcel out the public lands in very small quantities; but here you have a great and magnificent scheme which divides out the whole at one single leap.

I feel that I ought to pause and weigh my mind long in the balance whether I ought not to vote against this proposition, at least until I shall have had time to consider it. But, in looking around the cham-

ber, I find my friends disposed to go for it. I hope it will turn out well; but I notify you, gentlemen from the South and West, and from the land states particularly, if this turn out to be a political iniquity, I wash my hands of it now. Charge part to the senator from Virginia, and the greater part to the men from the new states.

A great portion of the public lands in the old congressional district which I had the honor to represent, in the other House, and to whose people I am under deep and lasting obligation, are interested in this proposition. They were entitled to buy their lands at \$1.25 an acre. Congress granted alternate sections to a railroad running through that district, north and south, and increased the price of the reserved sections to \$2.50 an acre. Scarcely a mail comes to me from Mississippi which does not bring some complaint of the gross injustice of that act. Now, sir, when you are reducing the price of the adjoining lands to twenty-five, and even as low as twelve and a half cents an acre, am I to stand here and see those people oppressed by the exaction of \$2.50 an acre for their lands? Shall a man who lives within six miles of a railroad be required to pay \$2.50 an acre for his land, and he who lives six miles and a quarter from it, be allowed to take his at twelve and a half cents? Within the distance to which the railroad provision applies, I want you to apply your graduation principle. Why should not the reserved sections be graduated as other lands are graduated, if the graduation be right in point of principle? If you are to reduce a quarter section of land outside of the six miles to twelve and a half cents an acre, why shall you not reduce the quarter section inside of the six miles to twenty-five cents an acre? I want to have some sensible reason for that. You have acted upon the principle that the building of a railroad has doubled the price of the land, so as to make it worth \$2.50; but you have now come to the conclusion that the lands shall be reduced one-half in value or four-fifths in value. Why shall you not reduce that land as well as the other? I am not asking you to reduce the land within the line of the railroad below the double value; but to reduce it as you reduce the other lands. If you ask twenty-five cents an acre for lands outside of the six miles, then ask fifty cents an acre for land of the same class within the six miles. If you ask but twelve and a half cents outside of it, then ask twenty-five cents inside of it. Let the same scale of graduation apply everywhere.

I cannot consent, sir, that my hardy constituents, the pioneers of the country, those who have lived there, and felt the oppression of your legislation heretofore; who have never received the benefits of your railroad projects; who have only felt your policy in doubling the price of the lands, shall now have their land kept up at twenty times its value. Mark you, you are reducing the land outside of the six miles to twelve and a half cents an acre, but you are keeping the land within the six miles at \$2.50 an acre, which makes twenty times as much inside of the six miles as outside of the six miles. I want to know where is the propriety, where is the reason, where is the logic, which will justify conduct like that? I ask, in moving this amendment, that you shall apply the same scale of graduation inside of the six miles, on either side of the railroad, which you apply outside of the six miles. Outside the six miles you sell at twelve and a half cents, inside you

should ask no more than double that sum—since it is on the principle of doubling the *minimum* that you made the grant.

In reply to Mr. Yulee he said :—

I think I understand the argument of my friend from Florida perfectly. We have made grants to railroad companies, and have promised that we shall charge double the price for the remaining sections, thereby, as it seems, granting to them that they should sell their sections at \$2.50 an acre; in other words, that we would not undersell or force their lands into the market at low prices. Then the whole question is narrowed down to a controversy between the people and the railroad company; and in that controversy, I am free to say, I take the side of the people. I want railroads built. I want railroad companies to prosper; but never shall I stand up here, or elsewhere, and advocate the interests of a railroad company at the expense of my laboring and toiling constituents. If a railroad is to be built by wringing from the pockets of my laboring constituents their hard-earned money, they may remain unbuilt till the latest hour of time, so far as I am concerned. The whole argument of my friend from Florida resolves itself into the point, that because we have entered into some sort of an engagement with a railroad company, we must not undersell them. We must not do it for fear we violate faith; and though we may reduce the price of the public lands in favor of everybody else, yet to those hapless people who reside within six miles of the railroad, we will not make any reduction whatever. I am unwilling to sanction any such proposition by my vote. I am willing to aid railroads, but I come here not to represent railroad corporations, or railroad monopolists, but as the representative of that portion of the American people who live in the state from which I come, and to their interest I will be faithful, come what may, and let the railroads go to where they choose.

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On the 7th May, 1856, Mr. BROWN spoke on the subject of titles under the Graduation Act, as follows :—

I submit the following resolution, and I ask for its immediate consideration :—

*Resolved*, That the Committee on Public Lands be instructed to inquire into and report what legislation is necessary to secure the United States against fraudulent entries under the graduation act, and what is necessary to quiet titles of purchasers under said act.

There being no objection, the Senate proceeded to consider the resolution.

Mr. BROWN. I wish to submit a few words of explanation before the vote is taken on the resolution. The Department of the Interior, through the General Land Office, has issued two or three circulars in reference to entries under the graduation act of August, 1854. Their design is a good one—to protect the government against fraudulent entries under that act. The intention of Congress in passing that law was to secure its benefits to actual settlers on the public lands. Doubtless in some cases speculators have been engaged in making entries, through third persons, for their own benefit, which certainly never was contemplated by the act; but the Land Office has issued circulars, the effect of which has been to disquiet the titles of all who have entered lands under the graduation

act. One circular required all persons who made such entries to come forward within two months and purge their entries of fraud, by making certain additional affidavits, not prescribed by the law, but by the regulations of the department. A second circular extends the period within which they may come forward with additional proof to twelve months. The effect of this upon the *bona fide* purchaser has been to throw a shade over his title. The law has not forbidden him to sell the land if he has entered it in good faith, for his own use, and not for purposes of speculation; but if he finds it to be to his advantage to sell, he cannot now do so because of the shade thrown over his title by the orders from the department.

I object to these orders for another reason. While the law did not lay down any rules which should establish fraud in the entry of land, the department has undertaken to lay down a general rule, and to make it apply to all entries, whether good, bad, or indifferent. Every man who has entered land under that act is required, by an order of the department, to come forward in twelve months and do certain things, and in default of doing them he is notified that his entry will be vacated and a patent withheld. Why? Not because all the entries are supposed to be fraudulent; not because one-tenth part of them can, by any possibility, be fraudulent; but because the department has a suspicion—probably a well-grounded suspicion—that some entries are fraudulent, it applies this rule to all who have entered under the law. The *bona fide* purchaser, who has complied in good faith with the requisitions of the law—who has done his whole duty in good faith, is required to do precisely what the man who enters in bad faith and in fraud of the law is called upon to do.

I do not pretend to say what ought to be done; but I do declare that *bona fide*, honest purchasers ought not to have their titles thus disquieted by suspicion being thrown over them. They ought not to be disturbed in their peaceful and quiet possession of the property which they have purchased, and for which they have paid all that the government demanded of them, and this on a simple order from one of the departments of the government.

I desire that the committee on public lands shall inquire what legislation is necessary to secure the government against fraud. If it be found that the principles embodied in these orders are necessary, let us enact them into law; let Congress pass a law embodying these orders in the form of a congressional enactment, and rescue parties who hold good titles from the disturbance imposed upon them by mere orders from the land department. At the same time, if anything can be done to relieve *bona fide*, honest purchasers and settlers from the suspicion thrown over their title by the orders from the department, I wish it to be done, and done promptly. My constituents are writing to me constantly of the effects which these orders are producing on their titles. They feel insecure. They are put to the trouble sometimes of going considerable distances to make new affidavits at additional cost to secure their title, after they have done everything which the law requires—after they have paid their money and received their certificate.

So far as I am concerned, I do not believe that these orders amount to anything. I have no idea that the general land office or the interior department has the right to lay down a general rule by which it will

determine fraud and vacate titles which are acquired under an act of Congress by purchase. What right has the land office to say to me, after I have complied with the law, paid my money, and received my certificate, that if I do not come forward and do something else which is not required by the law, but is simply prescribed by the land office, they will vacate my title? The proposition, I feel assured, cannot be maintained legally; but the consequence of this state of things is to cause a great deal of disturbance to settlers who are actual, *bona fide* purchasers. It is for the purpose of putting an end to those disturbances that I ask this inquiry.

In reply to Mr. Stuart, Mr. BROWN said:—

I certainly did not mean to be understood as unnecessarily or even severely criticising the course which the Secretary thought it his duty to pursue. He doubtless has done what he thought was right. I differ from him. I think that the action of the department shows that the department itself is not very harmonious on the subject. First, a circular was issued, requiring these additional affidavits to be made within two months. When that circular has had the effect of disturbing the title of the purchaser, the department finds out that the time allowed is too short, and extends it to twelve months. That time I think too short; I consider any time whatever too short.

My friend from Michigan seems to think that it is the patent which gives a man a title to his land. I differ with him on that point. It is the act of purchasing and paying the money under the law, and in accordance with the requirements of the law, that gives the purchaser his title. The patent is but the evidence of a title already acquired and possessed. I have no idea that, when A or B has purchased a tract in accordance with the law, the department has a right to lay down rules subsequently which will vacate his title, unless it be first established that the purchase was made by fraud. I grant you that fraud will vitiate the purchase, and will overturn the title. What I object to, however, is laying down a general rule by which fraud is to be presumed and adjudged against all parties, whether they are honest or dishonest. If my friend had gone forward and made a *bona fide* purchase, complying with all the regulations which had been made previous to the time of his entry, I hold that he would get a good title against the government, and against the world. If his neighbor went forward and made an entry in fraud of the law, he would have a defective title—or rather no title at all. But you must first establish the existence of the fraud before you can overturn his title. What I object to in these circulars is, that they lay down a general rule by which the department arrives at the conclusion that fraud has existed in all cases. That rule is, that unless a man comes forward and complies with certain requirements within twelve months, the department will adjudge the entry to have been fraudulent, will set it aside, and refuse a patent. That, I say, they have no right to do. If the committee and Congress shall judge that to be proper in the premises, let us enact it into a law. I object to the department making laws. I do not mean certainly to charge that the Secretary intended to do it, but I mean to say that such is my judgment of the transaction, and that the action of the department has had the effect of disturbing the quiet of hundreds, and I may say thousands, of my constituents, who have purchased land under this law, honestly and in good faith; but they will

not be able to comply with these rules, or, at any rate, compliance with them will be attended with a great deal of trouble. These are the reasons why I desire to have this inquiry made.

The resolution was agreed to.

## JOINT COMMITTEE ON CLAIMS.

SPEECH IN THE SENATE OF THE UNITED STATES, DECEMBER 19, 1854, ON HIS PROPOSITION TO ESTABLISH A JOINT COMMITTEE ON CLAIMS.

IN pursuance of notice given yesterday, I now introduce a resolution providing for an additional joint rule of the two Houses:—

*Resolved*, (the House of Representatives concurring), That the following be added to the standing rules of the two Houses of Congress:—

There shall be appointed a standing committee of the Senate to consist of seven members, and another of the House of Representatives to consist of thirteen members, to be called, in each House, the General Committee on Claims. It shall be the duty of said committee in the House of Representatives to report a bill at each session of Congress making appropriations for the payment of private claims. When the several committees of the House report in favor of any claim, the report, with the evidence on which it is based, shall be referred, and without debate and as a matter of privilege, to the said General Committee on Claims, and if that committee, after due examination, concur in said report, they shall insert an item for the payment of said claim in the bill for the payment of private claims, and thereupon submit a report and the evidences to the House to be printed, or otherwise disposed of as the House may direct. When the bill aforesaid is reported from the House to the Senate, it shall forthwith be referred to the General Committee on Claims in the Senate, and they shall proceed to insert therein such items as may in like manner in the Senate as in the House have been reported from the several committees, and have received also the sanction of said General Committee. The said bill, before its final passage in either House, shall be read by sections, and a separate vote taken on each section or item, and this notwithstanding the previous question may have been moved and seconded. In the order of business, the bill for the payment of private claims shall have precedence over other bills, next after the general appropriation bills.

I do not propose at this time to discuss that proposition, but if the Senate will indulge me, I will make a remark or two in reference to it, and then move its reference to the select committee which was appointed yesterday, and to which the bill of the senator from Pennsylvania was referred. I do not believe that that bill will at all meet the purpose contemplated by its advocates. The difficulty with us in reference to private claims has not been that we do not get investigation and reports upon them. The difficulty has always been in the other House of Congress, in procuring action upon the bills and reports after they have been made. That difficulty cannot be relieved in the mode proposed. Why? When you establish your board of claims they will go on to investigate such claims as may be presented to them, make their reports, and return their evidences to Congress with bills drawn by themselves; and then we shall be precisely as we are now, with reports, and bills, and accumulated evidences, but without action on the part of Congress. Therefore, sir, we shall not be advanced one solitary step beyond the point where we are now in the great object sought by the claimants themselves—that is, the procuring of a final settlement and payment of



their claims. Why, sir, if you will authorize that board, if you will put it in operation on the first of May, by the time that Congress meets in December they will have reported not less than five hundred claims to you, with five hundred separate bills, and in this they will simply relieve the committees of the two Houses of the labor of doing the same thing. Then will come the work which we are asked to do now, not to investigate, not to make reports, not to accumulate evidences, but to pass the bills. That board cannot pass bills through Congress; they cannot make appropriations; they cannot do that which is the great thing complained of now—make the appropriations and pay the claims.

The proposition which I submit proposes to relieve that difficulty; and without going into a discussion of it, I beg to commend it to the attention of the select committee which was raised yesterday, with the hope that they will at least consider it. Having given to it a great deal of consideration, I think that it will relieve the difficulty under which we labor. It will at least procure that which we desire, and of which the claimants stand most in need—positive action at each session of Congress on their claims, one way or the other. I cannot, for the life of me, see how the government is to be injured; how is it possible for the government to be injured by it? It will be seen that it is proposed that each item in the bill to be reported shall pass the ordeal of two committees in each House before it comes before the House or Senate—first, the committees as now organized, and then the general committee; and at last the bill is to be voted upon in each House by sections or by items—each item being voted into, or out of the bill, according to the sense of the respective bodies. I do not see, therefore, that it is possible that any fraud, any imposture, can be practised upon the government. But I did not rise to discuss the subject. I trust it will at least receive the consideration of the select committee, to whom I move its reference.

The motion was agreed to.

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On the 21st of December Mr. Brown continued the discussion of the same subject, and in that connection opposed the proposition to establish a Court of Claims.

MR. BROWN. Mr. President, I have two or three objections to this bill, and they are insuperable. I care nothing about whether you call this tribunal a board of claims, or call it a court, for I have been taught to think that "a rose by any other name would smell as sweet;" but I am wholly at a loss to determine why the name of this tribunal has been changed by the committee, except it be for the cause, with which all of us are too familiar, that boards of claims have fallen under public censure. Whenever you have had them, they have not only brought odium upon the country, but upon themselves. We have to-day to lament the wreck of many a fair reputation, on account of its connection with boards of claims. Did the committee expect, by changing the name of the tribunal, and calling it a court, that they would rescue it from public criticism? Was it expected that, by calling these three gentlemen a court, instead of a board of claims, the people of this country would not dare to criticise their conduct? Or did the committee indulge in some dream that gentlemen called judges would be more wise and more honest

than if they were called commissioners? If there be anywhere a sounder reason than one of these for changing the name, I should like to hear it assigned. I care nothing, however, whether you call this tribunal a board of claims, or call it a court; it is equally liable to objection, as I think I can demonstrate.

What is it that this court is expected to do? To render judgments, and draw warrants upon the treasury? No, sir. As has been well said by the venerable senator from Michigan, this was tried, and the country rejected it. Upon fair trial it was found that it would not do to permit the judges to draw warrants on the treasury, and I am only amazed that the wisdom of the Congress which passed that law failed to detect its unconstitutionality. We are told, in the plain letter of the Constitution, that "no money shall be drawn from the treasury, but in consequence of appropriations made by law." The committee who reported this bill, with an eye to that provision of the Constitution, have undertaken to fulfil it—and how have they done it? They have proposed to organize a court, and require that court to make investigations, to send in their reports and the testimony taken before them, with bills drawn, cut and dried, for the action of Congress. Why, Mr. President, this much is done in your committee rooms, and done quite as well, and with quite as much fidelity as it can be done by this court. Has any one ever complained that your committees do not investigate? Is there any complaint here, or elsewhere, that your committees do not report? Does not the table of the other House literally groan beneath the weight of reports and accumulated evidence brought in there by the various committees, from year to year? And what, sir, does all this accumulated evidence accomplish? What do all these reports accomplish? What is their effect? Simply to crowd the calendars of the two Houses of Congress with unpassed bills. When these same reports, and evidence, and bills shall come from this court, will Congress be more likely to act upon them than when they come from committees of their own body? Is it expected of senators and representatives, with their obligations to the Constitution, and to the people, and the states, that they are to pass into laws whatever bills this court may think proper to draw up and send to them? I ask honorable senators if that is what is expected of us in the future? Is it expected that we are to take for granted that all is true which the court report? Are we to take it for granted that their judgment is infallible? Are we simply to sit here and register that which they tell us to register? Or are we to exercise sound judgment in making appropriations under the Constitution? If we are, then I ask the honorable chairman who reports this bill, how far we shall be advanced if his bill passes? Shall we not be left precisely where we stand now, with evidence accumulated, with reports made, and with bills drawn, but bills not passed into laws, appropriations not made, and claimants not satisfied? So far as I am concerned, I would as soon trust the Committee on Claims of the Senate to-day, as trust this court, if it were now organized.

This, sir, is one of the insuperable objections which I have to the passage of the bill, that it does not advance us a solitary inch in the progress of business, unless it be taken for granted that the reports of the court will be infallible, and must necessarily be endorsed by the two Houses of Congress.

Mr. BRODHEAD. Will my friend, at this point, allow me a word of explanation?

Mr. BROWN. Certainly.

Mr. BRODHEAD. The honorable senator from Mississippi says he would trust the Committee on Claims of the Senate; but, as the chairman of that committee, I beg leave to inform him that I have not time to investigate the vast variety of cases which come before that committee, and yet properly discharge my other duties, and consider, as I ought to do, much larger questions.

Mr. BROWN. In that connection, to keep up the argument, allow me to ask the senator whether his committee, and other committees, have not found time to report hundreds of bills which Congress has never found time to pass? and if they be not passed, what is the use of reporting any more?

Mr. BRODHEAD. Mr. President, Congress may not have confidence in those reports, because we have not time to investigate, and to send out and take testimony upon the part of the government. The hearing before the committee is entirely *ex parte*. From want of time, want of an adversary proceeding before us, the government not being represented, Congress may not have that confidence in our doings which they ought to have.

Mr. BROWN. Mr. President, I have never yet heard any want of confidence expressed in the committees of either House of Congress; I have yet to hear the integrity of one committee impeached; I have yet to hear the skill or the ability of the committees impeached; but I have heard the integrity of boards of commissioners impeached, and I have seen, and all the world has seen, that they were either not honest, or were grossly careless in the discharge of their duties.

Now, sir, suppose this court shall be organized, and it shall pass some such enormous claim as the Gardiner claim; will the press of this country be muzzled, and stand in awe of the dignity of a court? or will they not speak out against it as they did against the board of commissioners which allowed that claim? Will public opinion stand aghast at the enormity of assailing a tribunal simply because you call it a court? No, sir; it will be assailed; it will be overthrown; it will be covered with odium and disgrace, if it shall happen to commit an error of that sort.

Again, suppose that the commission which passed the Gardiner claim had sent to Congress, and we, relying—as I suppose we are expected to rely—upon the wisdom, the integrity, and infallibility of such a court, had gone on to make the appropriation; what would have been said of the gentlemen whose names were found recorded in the affirmative on such a proposition? I introduce this illustration for the purpose of showing how necessary it will become for each member of the Senate and of the House, in protecting his own reputation, not to take these judgments upon trust, but to stand and scrutinize each and every one of them. If he does that, I repeat, this tribunal will not advance you a single inch beyond the point where you stand to-day. It may report to you more bills; it may give you more to do; but if you do not pass the bills you now have before you, are you likely to pass a larger number under the influence of such a board or court as this?

You know, Mr. President (Mr. Badger in the chair), and all other senators know, that I am not apt to be very particular about expense—

perhaps I am not enough so; but I wish now to inquire, what are you to pay for this tribunal? Why, you are to pay in salaries the sum of \$17,500 a year; you are to authorize an increase of Executive patronage—and all for what? Simply to relieve the committees of the two Houses of Congress from the labor of investigating and reporting upon these claims; for I assert again, that is all the court is expected to do. The whole matter, therefore, resolves itself down to this: are you willing to pay this sum of money, thus to increase Executive patronage, for the sake of having that done which the committees can do, and now do, just as well? But this is not a tithe—nay, sir, it is not a hundredth part of the expense of the court. The bill provides for appointing commissioners throughout the whole United States and all the territories, and wherever else God only knows. The power to appoint commissioners is unlimited. They are to be paid out of the treasury when the commission is to take testimony in favor of the United States—and will there ever be a case when the government will not need testimony, and will not take out a commission on its side? Is it expected that this tribunal is to decide on *ex parte* testimony—on the testimony of the claimant? If not, then a commission on the part of the government will be necessary, and necessary in every case. How much the expense will be increased by this proceeding, I do not pretend to know. Even if, after all this expense, we were to reach any profitable end; if we were to be advanced a single inch in the business of legislation, I should make no objection to it; but, I ask again, if the bills reported from committees now do not pass Congress, are these bills more likely to pass? Why, sir, what do we see every day in the other House? Bills to which no man on earth can make the least possible objection, in the way of argument, have been suspended there from year to year, from session to session, from Congress to Congress, and yet they are not passed. If such bills do not pass, tell me whether the bills drawn by this court are likely to pass. The very moment one of them comes into the House of Representatives, under the rules of that House, some gentleman will rise up and say, “I object,” and the bill will go back again upon the calendar to take a long sleep of two or three weeks, or perhaps as many months; and when it comes up again, some other gentleman will say, “I object;” not because he knows anything about it, but for the reason that he does not know anything about it; and hence nothing will be gained. I maintain, then, that by this bill, you are not striking at the root of the evil; you are not reaching it; but are involving the country in a heavy expense, making a departure from all established principles, when it is apparent to those who have investigated the subject, that in doing so, you are not making a step in advance towards the great object of passing the bills and paying the claimants.

The committee who reported the present bill have undertaken another very wide departure from the old precedents of the government. They have undertaken to say to each subsequent Congress: “You shall take no step backward in the progress of these bills.” They have undertaken to say, that if this thirty-third Congress gives a private bill two readings, in each House, the next Congress must give us credit for it; and if it has been read three times in one House, and passed, and only been read once in the other, that House, in the next Congress, may give it one reading more, and at another Congress give it its final reading. I doubt

very much, and but for the acknowledged legal ability of the gentleman who drew this bill, I should seriously question the authority to bind future Congresses in this way. Each Congress passes bills upon its responsibility to the Constitution and to the country. This idea of forcing one Congress under a legislative edict to give credit for all that has been done in the progress of a bill at preceding Congresses, is doing what I very much question your right to do. If this Congress passes a bill, how many times must it be read? Three times in each House. If the next Congress passes a bill, it must be read three times in each House. Is the next House of Representatives the same House that now exists, or is it a new House of Representatives?

Mr. BRODHEAD. I think my friend from Mississippi misapprehends the tenor and meaning of the eighth section of the bill, and I therefore ask for its reading.

The Secretary read it as follows:—

"SEC. 8. *And be it further enacted*, That said reports, and the bills reported as aforesaid, shall, if not finally acted upon during the session of Congress to which the said reports are made, be continued from session to session, and from Congress to Congress, until the same shall be finally acted upon, and the consideration of said reports and bills shall, at the subsequent session of Congress, be resumed, and the said reports and bills be proceeded with in the same manner as though finally acted upon at the session when presented."

Mr. BROWN. Exactly, sir. Now, what is meant by continuing bills "from session to session, and from Congress to Congress," if it is not expected that all that we do in this Congress in reference to a particular bill, shall be taken into the account of its passage at the next succeeding Congress; and then, if the two do not succeed in carrying it entirely through, the third Congress shall give to the two preceding ones the credit for what has been done? If that be not the purpose, aim, and object of this provision in the bill, the language in which it is drawn is very much misapplied. So far as taking up a bill at a subsequent session of the same Congress is concerned, we do that every day. That is all right; but the point which I make is, that this measure requires that bills shall be continued from Congress to Congress, and that I maintain you have no power to do; at least, such is my judgment, and I, of course, give it with great deference. I may be mistaken, but it does strike me, with great force, that you have no right to do such a thing. At any rate, about this I am not mistaken, that this is the first time in the history of this government when there has been an attempt to do such a thing. If you can do it in reference to claims, why may you not do it in reference to all bills, and all other legislative business? If you can do it in reference to private claims, why can you not continue all business from Congress to Congress; and whatever we leave undone at the close of this Congress, hand over to the next, and they take it where we leave it? I say this is commencing a very serious innovation; and if this be not the object, the language should be so changed as to leave no doubt of it.

I have other objections, Mr. President, to this bill, which I will not detain the Senate by assigning now. The objections which I have stated, if I had none other, are insuperable with me, and I cannot, under any circumstances, vote for this bill.

Mr. Hunter of Virginia having replied to Mr. Brown, he rejoined as follows:—

I wish to say a few words in reply to the senator from Virginia. He brings me to that point to which I supposed we should be brought in the discussion of this bill, and that is, that when the reports of the court are made to Congress, Congress is to pass them *nem. con.*

MR. HUNTER. I did not say so.

MR. BROWN. The senator says he did not say so, but his whole argument went to prove it so, and I will undertake to show to the senator that he has come as near saying so as ninety-nine and three-quarter cents are to a dollar. He alluded to my argument against the expense of this proceeding—and how did he answer it? By saying that the discussion of one private bill now consumes more money than the whole expense of this court would be. Are we not to discuss these private bills when they come from the court? If we are, what becomes of the senator's argument about expense? for the same discussion will be had then, I apprehend, as now. What becomes of that argument unless we pass the bills without discussion, which I said in the beginning was expected of us?

MR. HUNTER. I will correct my friend. My argument was this: I hope and believe this court will entitle itself to the confidence of Congress, and will have so much of the confidence of Congress, that in general its decisions will not require revision; that the cases requiring revision will be the exception and not the general rule.

MR. BROWN. Then that is one step further in the same direction which I was pointing out—that this court is to have the confidence of Congress, as the senator expresses it, and we are to register what it tells us without discussion. I dare say there will be an attempt to stifle discussion here and in the other House of Congress, and to force the decision of the court upon us, whether we will or not. I protest, in advance, against any such thing. I dare say it will be done; but I have no doubt that after two or three years shall have elapsed, its proceedings will be discussed. I know they ought to be discussed from the commencement, because I know that the obligation of appropriating money belongs not to a court, but to Congress. That member of Congress who fails to discuss or understand thoroughly a bill appropriating money before he votes on it, is not discharging his duty to the Constitution. Why was Congress required to appropriate money? Why was this responsibility riveted upon us, which we are now endeavoring to shake off? It was that the people's representatives—those who are amenable to the people and to the states—should give an account of the disposition which they make of the people's money. Here, sir, we have a proceeding which is to relieve us of this responsibility. We are to have so much confidence in this court, that we are not to discuss its proceedings, except now and then, I suppose, simply to keep up a show of discharging our duties. This is precisely what I apprehended in the beginning, because I saw, from the commencement, that unless we did that, we should have made by this movement—as I have already stated—not one step in advance of the position which we at present occupy. Unless you pass, without discussion, the bills sent by the proposed court, you will have accomplished nothing by its organization; and if you do discuss them, the court is a nullity, not worth a sixpence.

On the same day Mr. Brown again spoke as follows :—

Mr. President, I should not again trouble the Senate—and I only mean now to speak a few minutes—if senators had not stated my position entirely as though I were averse to these private claims. I must have labored to little purpose, if I have not convinced every one who pays the least attention to my course, that I have always sympathized deeply and earnestly with claimants, and, perhaps, said as much, and endeavored to do as much, as any other senator, or any other member of the other House of Congress, to relieve this branch of the government, and, at the same time, relieve the wants of private claimants. It is, as I undertook to demonstrate this morning, because this bill does not accomplish either of those objects, that I am opposed to it. I do not wonder that claimants should be in favor of this proposition. A man in a frying-pan would be very apt to jump into the fire—anything for a change. Claimants have suffered, I know, for years and years, under the inaction of Congress. I have always been ready and anxious to act in their favor; but when you make a change at all, I want it to be a beneficial change; and the point which I undertook to make this morning was, that, before senators should insist upon the passage of this bill, they should show that the bills coming from the court would be more readily acted upon than bills coming from a committee; for I insist that, until that is shown, you have not shown that this bill will give relief either to Congress or to claimants.

I want to show, while I am up, that so far from this bill giving relief to the claimants, it will be a total denial of justice to all small claimants. Why? It involves an amount of expense to them which they will never be enabled to pay, unless they have a claim for some thousands of dollars. Suppose there should be a claimant in one of the remote states, as Florida, or California, or in one of the remote territories, as Oregon, or Washington, for \$500. Now, he presents his claim to his representative or delegate, and he brings it here before Congress, and gets some sort of investigation—it does not amount to a great deal, it is true, but it does not cost him anything. Establish the court, and what will you require of him? He must, in the beginning, employ an attorney to present his claim to it, according to form; for here you are prescribing that petitions shall be drawn up in form, and then you are authorizing the court to lay down the rules which are to govern it. What will a poor fellow away off in Florida, or California, or in one of the remote territories, know of the forms and rules of this court? How is he to get his case fairly before the court, otherwise than by employing an attorney? What next? The court is to send out a commission—a commission from Washington City to Florida, or Oregon, or some other remote point, to take testimony; and if testimony is to be taken in favor of the claimant, he is to pay the expense of it. What private claimant can afford to pay the attorney's fees and expenses of this commission simply to get justice from his government? I stand up here, and in the name of those claimants, protest against the iniquity of this thing. It is our business to give justice to our creditors, and not impose upon them expenses which will amount to a total denial of justice. You have it in your power to do it without encumbering them with those expenses. You ought to do it; and if you are faithful to yourselves and to the Constitution, you will do it.

I want some one to show me how these enormous expenses are to be avoided. What attorney will take a claim from a remote state without his fee? The court will have its own rules, and will not consider a case without testimony. *Ex parte* testimony will not be considered. A commission will be sent out to take testimony anew. The claimant must pay the expense, so far as his side of the case is concerned. That expense must necessarily swallow up all the profits of the claim; and then, when he has paid the expenses, where does he stand? Precisely where he stands to-day, with a bill before Congress, which would be no more likely to pass on account of the expenses incurred and paid, than it is likely to pass now, unless you do as my friend from Delaware has said, pass it because of your confidence in the court. Sir, confidence is a plant of sickly growth; the very moment that you breathe suspicion upon it, it will be like the Exchange Bank of Washington. When confidence was destroyed, the bank went down. When confidence is destroyed in the court, the court will go down. Members will not be apt, after once being imposed upon by a decision from the court, to pass other bills without consideration; and when you come to discuss them as you discuss bills now, this discussion will occur upon every proposition as it comes up, as I will now proceed to demonstrate.

The expense of the discussion of bills coming from the court will be equal to the expense of the discussion of bills coming from a committee; therefore, my friend's argument all falls to the ground. How will the discussion arise? There will be outside parties, ready to complain that justice has not been done to the government, or to other parties; or the claimant will say that he got but some fifteen, or twenty, or fifty per centum of what he claims. He will say to his friends: "Injustice has been done to me; I want you to investigate this case; I want a discussion before the Senate about it." In every case where a claimant has not got all he asked for, he will demand discussion; when he has got all he has demanded, some ill-natured friend of his will be very apt to prompt discussion. One single member rises and attacks a bill on the ground of the insufficiency of the testimony; then you will have all the discussion on a bill coming from the court that you have on a bill coming from a committee.

You cannot keep down these discussions; and above all, Mr. President, you cannot prevent the utterance of those two potential words in the House of Representatives, "I object." "I object" has destroyed more bills in that House than the most eloquent arguments have ever carried through it. That same potent "I object" will be there to meet your bills from this court, as they have met your bills from committees; not because there is any reason in it, not because there is justice in it, but because members think proper to say "I object." I ask those who have served in the other House of Congress, if this is not true, and to the letter, according to their experience?

Mr. HUNTER. The senator from Mississippi seems to think that this bill will entail a great deal of expense on the petitioner. I think not. It requires him to do in the court what our rules require him to do here, file a petition, state the persons interested, and the action of Congress and the department upon it—a thing that he can do without an attorney, if he can draw up a petition at all.

Mr. BROWN. We all know that the representatives of the people do



not take note of the want of form. We do not care whether the petition is precisely addressed according to the forms of law, whether it opens and concludes properly, or not. We look to the substance of the thing; but what will the court do? What do we authorize them to do? Why, to make their own rules. What do courts do? Where is the private citizen in this country who can get his case fairly into court, and fairly out of it, without the aid of an attorney? Are not attorneys required in all courts? Has not the ingenuity of legislators in the several states been racked for years, seeking to dispense with attorneys before a court? And what has it all resulted in? Why, in imposing additional burdens upon the claimant. Where a private party goes into court, he must go with the aid of legal counsel, and so this court will require the same thing, whatever may be the pretensions or honest convictions of gentlemen.

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## PRIVATEER BRIG GENERAL ARMSTRONG.

SPEECH IN THE SENATE OF THE UNITED STATES, JANUARY 26, 1855, ON THE CLAIM OF THE OWNERS OF THE PRIVATEER BRIG GENERAL ARMSTRONG, DESTROYED IN THE PORT OF FAYAL, PORTUGAL, IN VIOLATION OF THE NEUTRALITY OF THAT PORT.

MR. PRESIDENT: As I voted for this claim before, and intend to do so again, I desire in a few words, to assign the reasons which govern that vote.

The facts in the early history of this case seem to be well understood, and about them there is little or no controversy, here or anywhere else. That the brig General Armstrong was attacked by a greatly superior force, in a neutral port, where she made a most signal defence; one which reflected high honor upon the nation, and upon all the parties engaged on our side of the controversy, seems to be everywhere admitted. That she was attacked in violation of the law of nations, seems never to have been disputed at any time. Through all the changes of administration, there has not been found a Secretary of State, or a President who has not insisted that the attack was in violation of law, and that an obligation was thereby imposed upon Portugal to indemnify the claimants. Portugal resisted, and our government continued to insist upon satisfaction until we were brought, under the administration of the late General Taylor, almost to the very verge of a conflict with that government, growing out of this claim.

Portugal has been discharged; and the question arises, by whose agency? It is admitted that the Secretary of State of the United States agreed to an arbitration of the case; and it is nowhere insisted that he consulted the clients of the government—for I shall so treat them—as to whether the case should be thus submitted or not. Assuming that he had the right to do so, he exercised it, and submitted the case to arbitration without their consent. The submission was to the late President of the Republic of France; but before he rendered his decision he became the Emperor of that country.

Now, sir, I am not going into any minute investigation of each particular fact in the progress of this case; but I shall endeavor to touch on those facts which are most prominent, and, in my judgment, ought to govern our decision. Up to the point where we now are there seems to be no controversy about the facts; but the senator from Tennessee asks whether it was not within the knowledge of these claimants that the case was submitted, and whether they protested against it? Well, sir, I apprehend that, if an attorney employed to prosecute a suit decides it out of the ordinary course of his profession, he will render himself liable if the money is lost; in other words, if I employ you, Mr. President, or any other gentleman, as a lawyer, to prosecute my case, and you submit it to arbitration without my consent, you render yourself liable to me for whatever damage I may sustain thereby. But it is said that you may protect yourself by a charge that I had knowledge of the fact that there had been such a submission, and that I did not protest against it. If this be not a violation of one of the established rules of law, it comes so exceedingly close to it that I hardly perceive the difference. It is an attempt to force on the claimants here the proof of a negative. If the government gave them notice, it is the duty of the government to show that the notice was given. If they had notice, let those who take the affirmative of that proposition come forward with the proof, and not impose on the claimants the necessity of proving a negative—that they did not consent.

My own clear judgment is, that, the government of Portugal having been originally liable, and our government having discharged that liability by its own mismanagement of the case, has obliged itself to make indemnity to these claimants; and upon that broad principle I shall place my vote. I will not follow the lawyers through all the little technicalities of the case, seeking a little technical objection here, and another one somewhere else, by which we may discharge ourselves from an honest obligation to these parties. Sir, who is the claimant, and what were the services rendered by him in the beginning of this claim? As gallant a soldier as ever drew a blade in defence of his country; a man who, by universal consent, fought the most gallant action that was ever fought upon the bosom of the waters, in proportion to the numbers employed. When before, sir, in the history of naval warfare has it been known that a little brig, with five or six guns and ninety men, could stand out in noble resistance against more than five times its strength, and come out of the conflict with only two men killed, when there lay dead on the decks of the enemy more than twenty times that number? When this transaction first occurred, if history speaks truly, it electrified every American heart from one extremity of the Union to the other. I dare say, if, at that time, the gallant old captain who stood upon the deck of the *Armstrong* in this conflict, had come to his government, and asked for payment for his ship, it would have been rendered, and there would have been no cavilling about it. The government would have said: "Here, my gallant son, take the money, and we will demand a return of it from Portugal; but so far as you are concerned, your ship shall not be sacrificed unlawfully in the defence of your country, and we stand by and permit it to be done without making an effort to save you and your men from ruin." In such a case as this, sir, I cannot persuade myself to sink down to the mere technicalities of the

lawyer, for there is too much in the history of the case, too much in the gallantry of the great and good old man who prefers the claim, for me to descend to those little particulars.

Sir, Captain Reid is not known to this country alone as the commander of the armed brig in this conflict. Fix your eye as you come to the Capitol upon that flag which waves over us to-day, and ask who is its author? Sir, the author of that flag, the man who designed it, is the claimant in this case. It was under his humble roof, by the hands of his wife and daughters, that the first flag that ever floated over this Capitol was manufactured. In every way he has manifested his devotion to his country, his deep and lasting devotion to America, to her institutions, and to her honor; not only toiling in season but out of season in her defence; and shall we, the representatives of the states, stand here to-day cavilling upon little miserable technicalities of the law, such as lawyers resort to in courts of law and courts of equity, to avoid the payment of honest claims? I have great respect, not only personally, for my friend from Michigan [Mr. Stuart], but I have the greatest respect for his astuteness as a lawyer; and if he were in court to-day pleading for some man who was trying to resist the payment of an honest claim, I should applaud his technicalities and say they were well taken. His was a lawyer-like speech. I am not prepared to say that, according to the strict rules of technical law, it was not a correct speech. As between A and B—A trying to avoid the payment of an honest debt on a technicality—I think the speech would have been well delivered; but I think it was out of place in the Senate of the United States for a great nation to attempt to get rid of an honest claim, preferred by a high-souled and patriotic citizen, who has shed his blood in defence of the country, who has reflected glory upon his flag. For myself, sir, I repeat, I am satisfied this government has made itself liable, in law, for the payment of the claim; but whether liable or not, I am going to vote on the broad principle that old Reid fought the battle, that somebody was responsible for the loss of his ship, that that responsibility has been removed from the party who was clearly liable, and that we ought to make up the damage.

## LETTER AGAINST KNOW-NOTHINGISM.

NEWTOWN, Hinds Co., Miss., April 12, 1855.

DEAR SIR:—Yours of March 21st, inviting an expression of my views in reference to the new political organization called "Know-Nothings," has been received. It has all along been my intention to avail myself of some suitable occasion to express my opinions of this Order. None arose while Congress was in session, and the limits of a letter, such as I am now called upon to write, hardly afford scope enough for a full expression and vindication of the views entertained by me. I content myself for the present, therefore, with a glance at some of the more prominent points of the issues presented.

Personally, I know nothing of the "Know-Nothings." Taking it for granted that common fame presents the Order in its true colors, it is a

secret political organization gotten up for the ostensible purpose of excluding Roman Catholics from office, and foreign born persons from office and the right of voting. If I misstate the object of the party it is because, in the absence of any public avowal of its purposes, I am compelled to rely for information upon common rumor.

I am opposed to all secret political organizations. The laws should be made, construed, and administered in the open face of day. From the first suggestion that gives them shape, to the final act of their complete execution, all should be public as the sun at noon-day. The history of the Jacobins, the Star Chamber, and the Inquisition, give us many and painful proofs that liberty is a by-word, and life a mockery, when the laws are either made, adjudged, or executed in private. It will be said, I know, that the new Order does not propose to legislate in secret. This is an unworthy evasion. If it is agreed in secret to pass particular laws, and men are chosen in secret, and secretly bound by oaths to enact them, of what avail is it that they go through the forms of legislation in public. The Jacobins consulted and agreed in private, but they went through the forms of legislation in public. The result was that they deluged France in blood.

If we consent to pass laws in secret or through secret agencies, how long will it be before we shall be called on to revive the Star Chamber, and pass judgment in secret? And when this is done, will not the Inquisition shake the dust from its implements of death, and claim the right to execute in secret?

Thus may be revived in republican America the appalling and bloody tragedies that blacken the pages of English, French, and Spanish history.

The secrecy observed by the Know-Nothings cannot be excused on the plea that all political parties hold secret caucuses. Whigs and Democrats avow their party associations—inscribe their principles on the banners they unfurl, and publicly—in the newspapers, on the stump, and everywhere else, vindicate their principles. They consult privately as to the means of reaching a conclusion; but the conclusion once reached, it is openly proclaimed. Not so with the Know-Nothings; they do not avow their party associations. As a party, they avow no principles before the public; and of course enter into no defence of their principles in the newspapers, on the stump, or elsewhere. They consult in secret, and when conclusions are reached they are made known only to the initiated. There is, therefore, no parallel between a Whig or Democratic caucus and a Know-Nothing lodge.

A vain effort has been made to excuse the secrecy of the Know-Nothings, by citing the example of Free Masons, Odd Fellows, and other benevolent associations. Things to be compared must have some sort of resemblance to each other. Free Mason and Odd Fellow associations are purely charitable. Know-Nothings are exclusively political. We have the highest Christian example for dispensing charities in secret. But the same high authority teaches us to govern openly.

I am American enough to prefer my own countrymen to any other, and Protestant enough to prefer a follower of Luther to a disciple of Loyola. But my love of country will for ever keep me out of any association that (if fame speaks truly) binds its members by terrible oaths to sustain American Protestants for office, though they may be fools,

knaves, or traitors, in preference to Irish or German Catholics, though they may have genius, honor, and the highest evidences of patriotic devotion to our country and its institutions. All other things being equal, I should certainly prefer an American Protestant to an Irish Catholic. But I will take no oath nor come under any party obligation that may compel me to sustain a fool or a knave, in preference to a man of sense and honor. While I assume no censorship over other men's thoughts or actions, I am free to say for myself alone, that such oaths and such obligations are, to my mind, palpably at war with man's highest and most sacred duty to his country.

To my mind the secret feature of the Know-Nothing organization, though paramount, is not its only objectionable feature. A party that is worth joining and worth sustaining ought to have some permanent, palpable, and lasting principles—some principles that can be carried into useful and active practice in the administration of the government. Have the Know-Nothings such principles? To my comprehension, as at present advised, they have not—can they, for example, by any system of legislation, short of a radical change in our Federal and State Constitutions, exclude Roman Catholics from the right of suffrage or the right of holding office. Our enlightened and liberal Constitution, as we all know, makes no invidious discrimination against Catholics, but extends the ægis of its protection over them and all religionists, assuring them of their right to worship God after the dictates of their own conscience. I am a progressive Democrat, but I have not progressed far enough to make war on the guaranties of the Constitution, to gratify a hatred of the Pope, or to undertake, by stealth, to accomplish that which the Constitution has forbidden me to do openly.

I am for the Constitution as it is written, and among the last of its guaranties that I would disturb is that in reference to religious freedom. How any man, schooled in our institutions and accustomed to the freedom of religious worship, which he sees every day, can desire any change, surpasses my comprehension. Theology is not my profession, and I leave to the learned D.D.'s the discussion of the relative merits of the several Christian denominations, gently hinting that such discussions suit the pulpit better than the bar room. And as they should be conducted for the honor of God and the glory of his church, the secrecy of a Know-Nothing lodge may, I think, be safely dispensed with. I may be mistaken, but if there is anything to be gained, of a practical nature, by the projected war of the Know-Nothings against the Catholics, it has eluded my observation.

The idea of excluding foreign born persons from office and the right of voting, is not quite so visionary, but practically it amounts to but very little more. It is a palpable but common error, that the right to vote is inseparable from citizenship. Many people appear to think that none but native or adopted citizens can vote in this country. This is a great mistake. Whatever may have been the individual opinions of men who framed the Federal Constitution, they practically ignored all control by Congress over the ballot box. They very properly gave to Congress the sole right to make a citizen of a foreign born person, but they wisely left with the states the power to regulate the right of voting. Each state, for itself and within its own limits, declares who shall vote. In the exercise of this right, Virginia and other states have imposed pro-

perty qualifications; Mississippi and some others allow every white male *citizen*, over the age of twenty-one years, to vote; while Illinois, Michigan, and perhaps others, allow male *inhabitants* (including foreigners not naturalized), to exercise the right of suffrage. The Constitution of the United States allows qualified voters for members of the state legislature to vote for Congressmen; and this is the only limitation, restriction, or regulation that is imposed, or can be imposed, without a change of the Constitution. Presidential electors are chosen as each state for itself may elect; South Carolina, in the exercise of this right, has always chosen hers by a vote of the legislature.

In what manner, then, allow me to ask, with great respect, will the Know-Nothings authorize Congress to exercise control over a subject that belongs exclusively to the states? I do not understand them to propose a change of the Federal Constitution, and without such change Congress has as little control over the elective franchise as it has over the English nobility. But suppose a proposition shall be submitted to change the Constitution, so as to confer on Congress the right to determine who shall vote—what is the first obstacle that interposes to the practical exercise of the right? The same that confronted the framers of the Constitution originally, to wit: Virginia would insist on a property qualification, New York would contend for free suffrage, Illinois would demand for her alien *inhabitants* the right to vote, while Mississippi would contend that none but *citizens* should exercise that privilege. And thus we should be brought back to where we were at the beginning, where we have been ever since, and where we are now—to the point of allowing those to vote within the states whom the states adjudge worthy and well qualified; or else we should have what I suppose the extremest Federalist would not insist on—Congress marching into a state and, *vi et armis*, striking down the last remaining vestige of its reserved rights, by assuming control over the ballot box. The ballot box is the bulwark of liberty; it should, under all circumstances, be kept free from improper influences. When secret influences are set on foot to wrest it from the states and put it under the control of Congress, the people may well tremble for the safety of their firesides. Is there one man in Mississippi who would be willing to see Congress invested with the power to determine who should vote and who should not in our state? Would not such an investiture become the winding sheet of liberty in Mississippi? and yet it comes to this, or else the proposition to exclude foreigners from the right of suffrage is an empty bubble; for I repeat, Illinois, Michigan, and other states have allowed aliens not naturalized to vote. It was their right to do so. They and any, or all the states, may do so again, and there is no power on earth to prevent it, short of a change in the Constitution. The simple question, therefore, is, "Will we abide by things as they now are, or will we change the Federal Constitution, and allow Congress to say who shall vote and who shall not?" Give Congress the power, and who will undertake to say what will be the result? If Virginia has her way, no man may be allowed to vote who does not own real property; if Massachusetts prevails, no man will be allowed to vote who owns a slave; if Illinois is heard, we shall have all the *inhabitants* voting, whether native or foreign born. I cannot help what other men may think or do, but for myself, I "will bear those ills I have, sooner than fly to others that I know not of."

In what manner the Know-Nothings intend to exclude Catholics and foreign born persons from office, I do not exactly understand. If it is proposed to exclude them by law, the idea is simply ridiculous. The Constitution has conferred no power on the legislature, state or national, to pass any such laws. If it is meant to exclude them by refusing to vote for them, then the whole thing becomes a matter of taste, *de gustibus nil disputandum*. I have said that other things being equal, I should prefer an American Protestant to an Irish Catholic; but if I had to choose between Montgomery and Arnold, I should not be long in making up my mind.

I have treated the subject thus far as a national question. First, because I am dealing with what purports to be a national organization; and secondly, because in Mississippi we have not been troubled with foreigners, and no one has been bold enough to propose that Mississippi shall assume control over the local affairs of New York, Pennsylvania, and other states where foreigners do most abound. The aliens residing in these states are subjected to the local jurisdiction, and if they are troublesome let the states exercise their undoubted right to control them. It is our business to attend to our own affairs.

We have seen nothing practical in Know-Nothingism as a political movement thus far. There is one, and only one point discoverable by me, in the whole creed of the new order, that rises above the low degree of a mere abstraction. It is this: "The citizens of each state shall be entitled to all privileges and immunities of citizens in the several states," says the Constitution. A naturalized citizen of Illinois for instance, coming to Mississippi, would be entitled to the same privileges that would attach to a native of Illinois coming to this state; whereas, a foreign-born *inhabitant*, although entitled to vote in Illinois by the laws of that state, would, if he came to Mississippi, be an alien, and entitled only to the privileges of an alien. Mississippi may admit an unnaturalized person to the right of voting, or exclude him if she chooses, but she can no more exclude a foreigner that is naturalized than she can exclude a native of another state. Mississippi could, if she choose, exclude all but natives of her own soil, but she cannot discriminate so as to admit the right of suffrage to the native of another state, and exclude the adopted citizens of the same state. In this view of the subject, it is admissible in Mississippi, as a part of the nationality, to express her opinion as to what should be the term of probation preceding naturalization. If an alien resides five years continuously in Illinois, or any other state, or in the United States, as the law now is, he is entitled to naturalization, and having obtained it, he may claim, as I have said before, all the privileges in Mississippi that rightfully belong to a native of another state. This presents the only point open to national legislation that is embraced in the whole Know-Nothing creed, as I understand it. We cannot exclude foreigners from the right of voting by act of Congress. A total repeal of the naturalization laws would not, as we have already seen, prevent a state from admitting a foreigner to vote within her limits. But the repeal of those laws would throw a foreigner upon the indulgence of each state in which he might reside. This modification would leave him the privilege, by one act of naturalization, to acquire all the rights and privileges in all the states of a native born citizen of any of the states.

In my opinion, Congress has no right to repeal the naturalization laws. The states conferred on Congress the power to pass uniform laws of naturalization, and by that act they divested themselves, as separate independencies, of all authority over the question. To repeal the laws and refuse to pass others would be effectually to deny to foreigners, in perpetuity, the right to become citizens. A state would have the right to complain that having given to Congress the sole power to pass naturalization laws, Congress, by a non-use of that power, had effectually deprived its alien inhabitants of all power to become citizens. Good faith to the states making the grant, in my opinion, requires its exercise. But the manner of its exercise is a subject open to the sound discretion of Congress. On this point, Mississippi, as a party to the compact, has a right to be heard. If *five years* residence is in her opinion too short a time to entitle an alien to the privileges of a citizen, she has a right to insist on ten, fifteen, or any reasonable number of years—any number that does not amount, virtually, to a denial to the constitutional right of naturalization.

A proposition to change the naturalization laws is quite a different question; it falls within the purview of congressional legislation, and furnishes a legitimate subject for debate as a national issue. For myself, I can say that whenever the public will or the public wants shall demand a change I am prepared for it. While I would yield nothing to the demands of fanaticism, or the spirit of intolerance, I am prepared to assist in carrying out whatever the calm dispassionate judgment of the country may require on this subject. I hardly feel called on to give an opinion as to what change should be made. In my character, as senator, it is my business, on a question of public policy, to follow rather than to lead public sentiment. If I gave an individual opinion, I should say, that having felt no personal inconvenience from the presence of Catholics or foreigners, I have made no complaint, and if others had been content to let the law remain as it is, I should have been content also. I have asked for no change, because no one in Mississippi, so far as I know, has petitioned for it, and personally I am satisfied with the law as it now is. If, however, my state, in its organic capacity, or if a majority of her people shall manifest a wish to have the law changed, and will indicate in what respect and to what extent, I will, as senator, endeavor to execute the will of the state or of the people.

I have said that I would yield nothing to the demands of fanaticism or the spirit of intolerance, but I have not characterized the *Know-Nothing* movement as fanatical or intolerant. It would be indecorous in me thus to speak of a movement in which I have reason to suppose many of my fellow-citizens are engaged. And yet I must say (and may I not hope without offence?) that there is much, very much in the movement that I cannot approve. It comes heralded by no previous warning—ushered into being without parentage—with no purposes openly avowed, and its supporters, though often victorious, are unknown to the public. If there exists a real necessity for changing the laws of naturalization, why not submit the proposition to the calm, dispassionate judgment of the country?—why not submit it openly?—why so much secrecy? Is there anything in a proposition like this, so startling that its advocates must band themselves in secret, and bind one another by terrific oaths to be faithful to their pledges? I have all my life been



accustomed to think bad men who sought to elude the laws of justice, had need of secrecy and oaths to make them faithful. But among honest men, seeking to evade no law, and pursuing honest ends by fair means, I can see no use for much concealment.

In expressing these views I am not taking sides against my own countrymen, I am not defending Catholicism or foreign influence in our affairs, I am not defending our foreign population in all their past conduct, or attempting to maintain that they have been faultless in their deportment. In many things they have been to blame. They have in our large cities banded themselves together for social, religious, military, and political purposes; thus keeping up in our midst a nationality alien to our country and distasteful to our people. They have gone to the ballot-box in large numbers, banded together as a class, to cast not American, but Irish, German, and other foreign votes. Conduct like this is indefensible. I will neither undertake to palliate or excuse it. While we open our country as an asylum to the oppressed of other lands, the least return they can make, it seems to me, is to conform heartily to our customs—mingle freely in our society—forget as soon as possible their foreign birth, and become in truth and in fact Americans in every sense of the word.

But let us not forget what belongs to the dignity of the American character. I would no more think of granting a foreigner the rights of citizenship and then grudge him their exercise, than I would invite a gentleman to my house and then deny him its hospitalities. But if I invite a man to my board and he behaves with rudeness I will not press him to stay, and I may be slow to urge a visit from his kith and kin. If foreigners coming to America would insure to themselves a countenance of cordial national hospitality, they must respect America, its institutions, and its people. And if they expect us to keep up a standing invitation to their friends and brothers to come among us, they must show by their own conduct, that we are to be benefited, or at least not injured by their coming.

There are classes of foreigners to whose presence in this country I object, and against whose coming I enter my solemn protest. I mean criminals, convicts, and paupers. Our country is neither a common jail nor an almshouse for the old world. Against the introduction of foreign criminals and convicts there is perfect unanimity of sentiment in the United States, so far as I know or have reason to believe. But the public mind is not so well settled as to the introduction of paupers. Some extremely philanthropic people protest against the exclusion of those whose greatest fault is poverty. Without entering into any metaphysical disquisition concerning the obligation of the rich to feed and clothe the poor, I content myself with saying that there is not a state in the Union that would allow another state to quarter its paupers within its limits. The rich and prosperous county of Claiborne or any other county in this state would protest at once against another county imposing its paupers on its bounty. What the states will not do for one another, and what one county in a state will not do for another county in the same state, the United States can hardly be expected to do for a foreign country.

Foreigners have sometimes been at fault. Foreign governments have grievously wronged us by trying to palm their refuse population upon

us. These are things to be complained of, but they do not demand the extreme remedy of political revolution. I am inclined to think the law is sufficient for our protection, and with a little more vigilance in its execution, all cause of complaint, I hope will vanish. If the law needs amending, let us amend it so as to give ourselves perfect safety for the future.

I am speaking of things as they are, and trying to deal justly with all parties; "I will nothing extenuate, nor aught set down in malice." Good faith requires me, therefore, to go on and say that our people have not always been without blame. Many of our leading politicians of all parties, in their intercourse with foreigners, have been guilty of marked improprieties. If I select an example here and there, for the sake of illustration, I am not to be suspected of charging one or of excusing another. Men of all parties have been to blame. There has been too much seeking after the foreign vote. My own emphatic conviction is, that no distinction should be known between native and adopted citizens. All are Americans, and all should be treated alike. While I condemn, therefore, the Know-Nothing movement as harsh, and to a degree cruel towards foreigners, I reprobate in the strongest terms every appeal to the separate foreign vote, and every attempt, come from whom it may, to identify or unite foreigners, as a class, with one party or another.

When General Scott, in the late presidential contest, went out of his way to compliment the "sweet Irish brogue," and the "silvery German accent," I thought he offended the national pride of his own countrymen, and gave to foreigners a gratuitous assurance that they constituted a separate class whose votes he would like to have.

It is not quite twelve months since the Congress of the United States, by an overwhelming vote, gave to foreigners not naturalized the right of suffrage in the territories of Kansas and Nebraska. I voted and spoke against this movement. But my opposition was unheeded. Many who are now for a total exclusion of foreigners from all rights, or, as a matter of extreme concession, are willing to compromise on a twenty-one years' residence as the shortest term in which a foreigner can qualify himself to vote, were then the most clamorous for giving them the right without a month, a week, or even a day's residence. Men may palliate their past follies on the one side, by their excessive zeal on the other for the future. But I take leave to say that a little more consistency would inspire in me a higher degree of confidence in their good faith.

I shall never forget the reception of Kossuth at the national capital. He came to this country breathing contempt of Washington's precepts, and the people's representatives received him with open arms. The President (Mr. Fillmore) sent his son to New York, and bid him welcome; Congress, by an almost unanimous vote, invited him to Washington as the guest of the nation; and when he got there, honors were lavished on him such as have not been bestowed on any living man. There was an ignoble rivalry between Whigs and Democrats, as to who should be the most obsequious in these attentions to this intermeddler in our affairs. Not only did they entertain him and his suite at the expense of the nation, but they spread before him a banquet such as kings might envy. And at this banquet the American Secretary of State (Mr. Webster) appeared, and made a speech highly complimentary, if not, indeed, eulogistic of the "distinguished guest." Nor did the disgusting folly stop here.

Kossuth was invited within the bar of the two Houses of Congress, and appeared in the Senate chamber, clad in an imperial uniform, with a sword girt to his side. It is creditable to the nation that this was the first, as I humbly believe it will be the last, exhibition of its kind. Is it wonderful that the national taste was offended, or the national pride aroused?

It is said that Kossuth was the friend of liberty, and these foolish demonstrations in his favor have been excused on this ground. He made some pretty speeches, and he left on paper some stirring essays. But if he ever "*set a squadron in the field, or did the divisions of a battle know more than a spinster,*" history has cruelly failed to make the least record of it. In this country, he was mainly distinguished for his impassioned appeals to our government and people to abandon the teachings of Washington, and follow him (Kossuth) in a crusade against all the world, and Austria in particular, in favor of a restoration of Hungarian independence. He would have had us embark in a bloody war to restore Hungary to a position in which she could recognise him as king. For this, his *singular devotion to liberty*, our public men feted, toasted, and caressed him; grave senators and dignified representatives hung about him for days and weeks, and drank in his words, as though they had fallen from inspired lips. It is curious to see how many of those who followed Kossuth like a shadow, and seemed actually to revel in the sunshine of his favor, are now become rampant Know-Nothings, and are trying to conceal their folly in running after him, by cursing all foreigners, and threatening to expel them from the country. Consistency, thou art indeed a jewel! I need hardly add that I voted against inviting Kossuth to Washington, and refused to participate in doing him honors after he got there.

These remarks are made in no complaining spirit against my peers. If there have been faults on the part of foreigners, there have been follies on the part of our people. Preserving, as far as possible, a calm equilibrium, I have not been exasperated by one, nor taken captive by the other. To me it will be a source of unalloyed pleasure, if my fellow-citizens shall see in the future a necessity for encouraging foreigners to become more intensely American in their habits, sentiments, and deportments, and for placing over their own conduct a closer watch.

Having already drawn out this letter to a much greater length than I intended, and still omitting several points on which I could with propriety have touched, I am constrained to bring it to a close.

On some proper occasion, I will undertake to analyze the constituent elements of the Know-Nothing party. To show that it is composed chiefly of Whigs, Free-Soilers, and disappointed Democrats; to exhibit its incompatibility, and show how improbable it is that such incongruous materials can ever harmonize in the administration of the government. If the party was in power to-day, it could not pass one act of national importance without the grossest surrender of principle on the part of some one. How could National Whigs and National Democrats act together on issues that have separated them and their fathers for half a century; and how could either act in concert with those pestilential disturbers of the public peace, who make unceasing war on the South and its institutions? To my mind the thing is impossible. As I mean to belong to a homogeneous party, I will stick to the Democracy. And

why should I not? why should not every true Democrat be faithful to his flag? Is not Democracy now what it has ever been? Has it not for fifty years and more administered the government with unparalleled success, lifting it up, from a few feeble and almost dependent states, to the most powerful confederation of independent sovereignties on the face of the earth? Has it not extended our area to more than four times its original limits; thus multiplying our domestic pursuits until their name is legion, and expanding our commerce until it takes in the four corners of the globe? And has it not raised up a policy, at home and abroad, that entails upon us unequalled prosperity, and is literally wringing respect from all the world? Why should I or any other Democrat quit his party? Suppose errors have been committed; suppose men in high places have disappointed our hopes—would it have been better under a Whig or Free-Soil administration? No, sir, whatever have been the errors of the past, let us look hopefully to the future. Democracy has not yet filled her mission; and until she has, I will follow her banner. She has conquered many fields; but it is her mission to conquer a universal dominion. The soldier who deserts now is, in my judgment, a traitor to liberty and the dearest interests of humanity throughout the world. The mission of Democracy is no holiday march. It is destined to emancipate the world—to trample thrones and sceptres under foot, and set the people free in every land. Just now the enemy is before us. He vauntingly boasts that he will drive back this young and daring cavalier. Shall we ground our arms and surrender at discretion, or shall we gird on our swords and be ready for the conflict? The quick response of every loyal Democrat will be, “the flag, at every cost, must and shall be defended.” I will give neither sleep to my eyes nor rest to the soles of my feet, until the assailants are driven back and the banner of Democracy waves in triumph over every foe.

With sentiments of high regard, I remain, very truly,

Your friend and obedient servant,

A. G. BROWN.

J. S. MORRIS, Esq., Editor “Port Gibson Reveilla.”

## NAVAL RETIRING BOARD.

SPEECH IN THE SENATE OF THE UNITED STATES, JANUARY 2, 1856, ON THE ACTION OF THE NAVAL RETIRING BOARD.

MR. PRESIDENT: If it had suited the purpose of other senators to allow this whole question to lie over until the Committee on Naval Affairs should have reported upon it, that course would have suited me, and I think would better have comported with the fitness of this occasion. But, since other senators have thought proper to defend their positions, there can be no impropriety in my saying a few words in reference to my own.

No more delicate or difficult question is coming before the Senate than the one which we are now considering. We have already heard

complaints of the law under which the action of the Naval Retiring Board took place, and senators, in their places, have apologized for having voted for it. Some have intimated that they voted without proper reflection, and that no proper opportunity was given for consideration. I voted for the law, and I have no such excuses or apologies to render. I voted for the law because officers of the navy of every grade besought me, and besought me most earnestly, to vote for it; and my experience, I dare say, was the experience of almost every senator on this floor. Pending its consideration, officers of every grade, from commodore down to an acting midshipman, besought their friends here—at least I was so besought—to give it their support. I was reluctant to do so, because I apprehended that difficulties would grow out of the execution of the law. Where there was so much unanimity in favor of the measure, I could but foresee that there was no one on the whole navy list who expected to be dropped or retired. Every officer, from the lowest to the highest, was looking for promotion. I foresaw that when some were dropped, and some furloughed, and some retired, dissatisfaction would spring up, and that the officers thus dealt with, by themselves and through their friends, would come here and complain of having been harshly treated.

For these reasons I was reluctant to vote for the bill which was passed establishing the Naval Board. I voted for it, however, at the earnest and unanimous solicitation of officers of the navy. So far as my intercourse with them extended, no officer of the navy, of any grade, ever intimated to me, in the slightest possible degree, that the law ought not to be passed. I have no reproaches to enter against myself or others for having sustained the law. As to the manner of its execution, that is another question.

I am not here, sir, to censure the Naval Board indiscriminately, and upon the complaint of every man who chances to have been dismissed, retired, or furloughed, and especially when we have not heard a solitary word from the board itself; and I confess that I am getting somewhat impatient when I see your table morning after morning crowded with complaints, reflecting more or less upon a board composed, in my opinion, of as honorable men as the country or the world has ever produced. They may have made mistakes—doubtless they have; but hear before you strike. Let your own committee investigate the question, and make its report; and upon that report let the judgment of the Senate be pronounced.

A few words, now, as to the condition of the question as it stands. The law, according to my judgment, has been executed. Gentlemen speak of repealing the law. Well, sir, suppose the effects of its execution were even ten times worse than they are alleged to be, how much difficulty would you relieve by repealing the law? Certain gentlemen have been dismissed from the naval service; the President has stricken their names from the rolls; they are out of the navy. Suppose you were to repeal the law, will you thereby restore such men to commissions? Unquestionably not. Suppose you repeal the law in reference to those who have been furloughed; what will be the consequence of that? They have been furloughed in obedience to an act of Congress, and the repeal of the law will not take them off the furlough list and put them into active service. Congress has no right to pass any law appointing A, B, or C to office. Gentlemen who have been stricken from the rolls are out

of the service, and if you sit here and legislate till doomsday, you could not, in my opinion, legislate them into the service. This is no new question; it has already been decided. If Congress had had the power of appointing men to office, it would have made a provision declaring that General Scott should be Lieutenant General. But you had no such power. It was conceded on all hands that you had no such power. It was also conceded by everybody that you had no power to pass a law requiring the President to nominate General Scott as Lieutenant General. You only had the power to pass a bill creating that rank, and then the President, in the exercise of his duties as Executive of the United States, could nominate him if he chose, and the Senate confirm him if it chose. You have no right to legislate back again into office the gentlemen who have been dismissed from the navy. Whether their dismissal was rightful or wrongful, is not the question. The question is one of constitutional power.

I hold that all these appeals to Congress to legislate gentlemen out of difficulties into which they have, in some cases, been legislated at their own solicitation, are out of place. I shall be very glad to contribute whatever may be in my power to relieve those who have suffered injustice. If any man has been unjustly dismissed from the service, I am willing to hear his petition and to consider his case; I am willing to extend to him all the relief that is in my power; but we cannot ignore the question as to the extent of our power. What have we the right to do in reference to the case as it is now presented?—that is the question. Admit, if you please, that injustice has been done—that all these complaints are well founded. What can you do? Some one says, “repeal the law.” Very well, suppose you do, does that restore the dismissed officers? You might as well talk of restoring a man to life by repealing the law under which he was executed! The law is executed, and is a dead letter on the statute-book—as dead as an Egyptian mummy; and the officers dismissed are as far out of the service as if they had never been in it. What can you do? I recur to that question.

It seems to me, with all due deference to the judgment of other gentlemen, that the Secretary of the Navy himself, in his report, has intimated a step in the right direction. Without undertaking to state precisely what he means, or what is his plan, I may venture to suggest that it may be this: that whenever vacancies occur in the service by death, resignation, dismissal, or otherwise, they shall be open to be filled by the nomination of gentlemen who have been dismissed improperly from the service in consequence of the action of the late board. For example: if B, on the active list, shall resign, or die, or be dismissed, then A, who has been improperly dismissed under the operation of this law, may be nominated by the President to take the place, and thus be restored to his rightful position in the service—a position from which it will thus have been admitted he was improperly discharged. Unless we approach the question in some such form as that, I am at a loss to see what we can do.

Even admitting that all the complaints which naval officers make, and all that are made by their friends on this floor, be true, you have no power to compel the President to nominate any one of the dismissed officers to the Senate. If you undertake to suggest to him that he ought to do it, and especially if you undertake to direct him to do it, he would

probably take the bit in his mouth, as I am sure he ought to do, and refuse to do it. But, unless he does nominate these men in the mode I have suggested, how are you to get them back into the service? According to my understanding of the law, there is but one way of restoring them to the service, and that by a nomination from the President, and confirmation by the Senate.

I shall not go into a discussion of cases of individual merit or demerit; but I should do injustice to myself if I did not say that I think the senator from Florida [Mr. Mallory], the chairman of the Committee on Naval Affairs, has taken the true position, so far as the individual case presented by the distinguished senator from Tennessee is concerned. I am sure I should be as slow as any senator, or as any citizen of the republic, to deny to Lieutenant Maury any honor which is his. That he has contributed largely to science, that he has reflected credit upon our common country, I am as ready to admit as any one here or elsewhere, and I am as proud as any senator that it is so; but when you passed this law, what did you mean? I take it for granted you meant what you said—that you were passing a law to promote the efficiency of the navy. Is the efficiency of the navy to be promoted by having one man on shore for half a lifetime, pursuing scientific studies, and at the same time remaining in the line of promotion in the navy, while another of equal grade is encountering the dangers of the Atlantic Ocean, or the diseases incident to the coast of Africa, or is doubling the Cape of Good Hope, or is penetrating the icy northern seas? Is the man who happens to be next to Lieutenant Maury on the list to be kept back through all after time from that promotion to which his sea service justly entitles him, because Lieutenant Maury happens to be distinguished in scientific pursuits, but who happens also to have no particular distinction as a seafaring man?

I understood, most distinctly and particularly, when I voted for the law, that we were to do something which was to encourage our naval officers to pursue their profession in its fair, legitimate line—something which was to give them hope of promotion if they fairly won a title to promotion in the proper discharge of their professional duties. I did expect that those who had for a long series of years remained on shore in scientific or other pursuits, however honorable they might be, would be removed out of the way, so that those who were in the active pursuit of their profession might have an opportunity of rising in proportion to the service they had rendered. I am not, therefore, disappointed that Lieutenant Maury has been placed upon the reserved list with full pay. His position gives him an opportunity to pursue his scientific studies to his heart's content. He can add to that immense reputation which he already has, and which I am as proud as any other American to feel is yet a growing reputation; and he will no longer stand in the way of the promotion of those who are engaged in active sea life. When I voted for the law, I anticipated just that sort of result, and I feel some surprise that Lieutenant Maury should desire, without encountering any of the risks or hardships of the sea, to stand in the way of those who do. If he takes the honors of civil life, let the mariners have those that belong to the sea.

Nor am I more disappointed in the case of Commodore Stewart. I know the history of the gallant old commodore, and as an American I

am proud of it. I am proud of all his naval achievements, and of his glorious services; but I did anticipate that a man of his great age would be removed from active service, and *honorably* retired. Sir, gentlemen must excuse me when I say it. The idea never crossed my mind that retiring these gentlemen was the slightest possible reflection upon their honor. If I could suppose that placing Commodore Stewart upon the reserved list was a reflection upon his professional, or upon his private character, I would be as ready to denounce the proceeding as any other man; but I have never so regarded it, and do not so regard it now. Commodore Stewart has been almost literally worn out in the service of his country, and does it follow that he is dishonored because his country prefers the services of a younger and more active man? I know that the old commodore has the true ring of the metal in him. I know that he is true game. He does not appreciate the idea that he has grown old, and that his position at the head of the navy may, in the judgment of younger men than himself, impair the efficiency of the service; but it is for that reason alone—because he has been literally worn out in the service of his country—that he has been honorably retired. No reflection on his honor was contemplated; no indignity was intended. No man living regards him as less honored by his country or his countrymen to-day than he was this day twelve months ago. This proceeding cannot, by any possibility, in the judgment of the men of this day, or in the judgment of posterity, reflect the slightest discredit upon Commodore Stewart. The same may be said of Lieutenant Maury, and of other gentlemen.

A great deal has been said in the Senate and out of it about this having been a secret and inquisitorial proceeding. Mr. President, you and I are opposed to secret meetings of all kinds; you and I prefer open fair dealing; but I can see—and I think if other gentlemen would look at this thing calmly they would see—many reasons why this investigation ought to have been secret. While many gentlemen prefer, that whatever investigation occurred in regard to them should be open, there may be, there doubtless are, many others who would prefer that the investigation should not be quite so public; and as neither the public interest, nor any other interest, was to be subserved in any high degree by an open proceeding, it was better to have it secret, than to wound the sensibilities of those who did not choose to have their private affairs publicly investigated. If public opinion were directed in the proper course, it seems to me that the sound judgment of the country would be, that, in the absence of all evidence to the contrary, it must be assumed that none were dismissed for dishonorable conduct, or for conduct which was disreputable as gentlemen. I am not willing to investigate the causes of every man's dismissal. I will inquire into no man's private conduct, without I am bidden; but I give notice to all the world, that if officers of the navy, or others, come here and demand investigation, I will give it to them; and if they find transactions paraded before the world that had better slept in secret, it is their fault, not mine.

I am willing to believe that no man has been dismissed the service for base conduct of any kind.

Why assume, under the language of the law, that any man has been dismissed for dishonorable conduct? There are many other reasons pointed out in the law for which he may have been dismissed or retired.



Why not assume that he was dismissed or retired for some one of these? Age is one; infirmity another; incapacity, not brought upon himself by bad conduct, another; none of these are dishonorable—incapacity arising from the want of an earnest pursuit of his profession, is another cause for retiring or dismissing officers. Retiring, or even dismissing, for such a cause, would convey no reflection upon his personal honor; but it would simply show that the officer did not like his profession, and therefore had not pursued it with the eagerness necessary to the highest degree of efficiency. When you can find so many reasons in the law itself why officers should be retired, or furloughed, or dismissed the service entirely, that reflect no discredit on them, it is passing strange to see it assumed that all who are displaced are thereby dishonored. For myself, I am perfectly willing to believe that those who have been dismissed from the service are, in all the relations of private life, quite as honorable now as they were when they occupied positions on the active service list. I am so, because I can see a hundred reasons fairly deducible from the law itself why they ought to have been dismissed, which do not reflect at all upon their honor as gentlemen. I am therefore slow to take the view of this case which other gentlemen have taken, that those who have been dismissed, retired, and furloughed, have been in some degree dishonored. The proceeding was private, and it is therefore assumed that reflections on private character were cast or meditated—verily, the wicked flee when no man pursues. The man who is strong in his own conscious rectitude, ought not to be so easily alarmed as to the judgment that others may pronounce upon him.

But I did not rise to discuss this question at any considerable length. I think this matter can be so arranged as to carry out the objects of the law, in promoting the efficiency of the navy, and at the same time guard the innocent and meritorious against all injustice. This may be done, as I intimated before, by the Executive declining to fill vacancies in the service by regular promotion, and leaving them open to be filled by the nomination and confirmation of such dismissed officers as have been improperly dealt by. This may be done. If the Senate acts in concert with the Executive, I feel assured this will be done. If any gentleman can suggest a better remedy, I shall be glad to hear it. The plan commends itself to me in this, that all who get back will do so on their merits, and not under the smoke created by a general *emeute* raised against the law.

I am not going to vote to put things back to where they were before the law passed. We have no power to do that, and I would not do it if I could.

After sixteen or seventeen years' constant complaints from naval officers of every grade, that there was inefficiency in the service; and after Congress and the Executive have united in declaring that the navy did need reformation, I am not now going to stultify myself by proclaiming on the record that no reform was ever necessary, and that I will therefore undo all that has been done, and go back to the beginning. I am willing to give relief as far as I can, whenever justice demands it, but I want it understood that every case must stand on its own merits. This general outcry against the naval board will not move me one jot one way or the other.

If errors have been committed, as doubtless there have been, I will do

whatever is in my power to repair them. If any man has been unjustly dismissed, I will do anything in my power to restore him to his proper position; but I will not, at one move, restore to the navy, by my vote, all the *materiel* that has been cast out of it, good, bad, and indifferent.

Naval officers may have persuaded me into an error; they may have persuaded me to believe that there was inefficiency in the service when there was really none; but I listened to their complaints, and brought my mind to the conclusion that there was inefficiency, and that pruning and lepping off were necessary. I listened to the various and successive heads of the Navy Department, and heard the same story. The whole country became full of that complaint. There was a universal belief that reform in the navy was necessary. You have had the reform, and now you have as universal complaint against it. If we believed all that we hear in this chamber, we should be brought to the opinion that there was not a solitary man in the navy who was not perfectly efficient, afloat or ashore, and that, therefore, nothing in the way of reform was necessary. I do not believe that story, and I do not mean to vote as if I believed it.

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On the 6th of February, 1856, Mr. BROWN again spoke on the same subject as follows:—

I do not intend, Mr. President, to review the speech of my friend from Tennessee; but it seems to me that, in his resolution and in his speech, he has fallen into some errors which ought to be corrected.

The whole censure thrown upon the Naval Board, not only by my friend from Tennessee, but by other senators, seems to me, with all due deference to the superior judgment of other gentlemen, to be out of place, and arises from a misconception of what was the true relation of this board to the law and to the Executive of the United States. The board have not dismissed any man from the public service. They were simply authorized, under the law, to advise the President who ought to be stricken from the list of naval officers, who ought to be furloughed, and who ought to be retired on full pay or on the reserved list. Their proceedings were absolutely null and void without the approval of the President. They had no power to do anything beyond simply making a recommendation, and that needed the confirmation of the Executive before it became in anywise obligatory or effective—the Secretary of the Navy, of course, intervening between the board and the President. Therefore, sir, I hold that all the censure which is heaped on them, all the complaints that they have not kept a record, are wrong. Who had the right to demand a record, and who had the right to review that record, if any had been kept? The President, and nobody else—the Secretary of the Navy, however, intervening between the President and the board.

Sir, we are not here to revise the action of the board. When the law was passed, the Senate reserved to itself no such revisory authority. Congress authorized the appointment of a board to advise the President as to who should be dismissed, who should be furloughed, and who should be placed on the reserved list. It belonged to the President, and to him alone, under the law, to revise the action of the board. With that action I hold that the Senate has no concern. It is no business of ours whether

they kept a record of their proceedings or not. The President has approved the action of the board, and from that approval certain results have been reached; and you are now asked to concur, not with the action of the board, but with the action of the President. Because certain parties have been removed, others furloughed, and others put upon the retired list, promotions have become necessary; and the President has made his nominations for those promotions, and you are here asked to confirm or reject those nominations.

I do not pretend to say, that censure belongs anywhere, but I say that least of all can it attach to the board. Suppose that the President of the United States, without the authority of Congress, as he would have an unquestioned right to do, under the Constitution, had chosen to appoint a board to advise him as to who should be dropped from the naval list, who should be furloughed, and who should be placed on the retired list, if one had existed—suppose he had taken it into his head to exercise his constitutional function to strike certain gentlemen from the list of naval officers, and, not feeling quite sure in his own mind who ought to be dropped, he had himself constituted a naval board to advise him—in that action, I hold that they would have been responsible to the President, and to nobody else. Instead, however, of things taking that direction, Congress by a direct statute authorized the appointment of such a board. Why was that done? Congress believed that the President had not exercised his constitutional functions by striking inefficient officers off the list. They believed that the navy required reducing; that it required pruning; that its dead limbs should be lopped off. With a view to enable the President to understand who were inefficient, Congress provided for a board simply to advise him.

The President, I say again, might very properly have demanded of the board, in writing, the reasons why they made this or that recommendation; but it was for the President, and not for the Senate, to approve the action of the board. There was nothing in the law, there is nothing in the policy of the government, there is nothing in its past action, that justifies the Senate in demanding the reasons why this or that recommendation was made to the President. Our business is to revise the action of the Executive, and not that of the board, which was simply advisory to the President.

Now, sir, have you any right to demand of the President the reasons why he approved the action of the board? Have you any right to demand of a coördinate and equal branch of the government the reasons why it has displaced certain officers, and sent us the names of certain others to take their places? I hold most emphatically that you have no such rights. If you think proper to reject a nomination made by the President, you may do so for reasons which are satisfactory to yourselves; but you have no business to demand from the President why he has dismissed this officer or that, nor why he has made a nomination to fill a particular place. As well might the President come and demand of you the reasons why you have passed laws, or why you have refused to confirm nominations.

The departments of the government are separate, distinct, and independent, each from the other. The legislative branch has no right to demand of the judiciary the reasons why they act thus and so; the legislative branch has no business to demand of the Executive why he

acts thus or so; nor has either of them the right to demand of the legislature why we act thus or so. If our action is harmonious, it is well; but if any one of the departments of the government disagree, the action of the whole must necessarily fail.

I confess I do not like the idea, and I do not fully understand the object of undertaking to pass by the President, and throw the censure wholly on the board, who were never required to act with any responsibility to the Senate, or to Congress, or to the country. It was simply an intervening board, authorized and appointed under a law to advise the Executive what he ought to do. When they gave their advice, their functions entirely ceased; and if the President had not approved what they did, their whole action would have fallen to the ground and become null and void. The President, therefore, being the revisory power, had the right to demand the reasons why they recommended to him to do thus and so; but as they made no recommendations to the Senate, and as the Senate is not called upon to revise their action in any way, and reserved to itself no power to make this revision when the law was passed, I maintain that this demand for reasons is altogether wrong and out of place:

My friend from Tennessee says he would demand the reasons why each and every man was displaced, and, though the assignment of those reasons might fall with crushing power on ninety-nine men, if their assignment was necessary to rescue one fair character, he would still demand them. That sentiment is noble enough; but the case did not require the enunciation of any such sentiment. Some of the officers who have been retired have sent in their applications by memorial, and have demanded an investigation into the causes why they have been displaced; and those memorials have been sent to the Committee on Naval Affairs. You are not to conclude in advance that that committee will not discharge their duty and their whole duty.

By what authority do senators assume that the Committee on Naval Affairs will not make all the investigation which the case requires; that they will not report all the facts which are involved in each particular case separately, on the memorial which has been referred to them? It seems to me that the passage of such a resolution as this distrusts the integrity of your own committee. I hold it to be the duty of the Committee on Naval Affairs to report on the separate cases which have been referred to them, as much so as to report on the memorial of any other citizen of the republic who feels that he has been aggrieved by the action of the government. When those reports are made, let us consider each case on its own distinct merits. I rise solemnly to protest against this mingling of the guilty with the innocent, and this idea of making a hotch-potch business of the whole concern, and dragging private gentlemen's private affairs before the Senate, and before the world, when they have made no application to be thus dragged before the Senate and before the country. If there be a single man on the list of dismissed officers, who feels that his reputation is more secure in that privacy where he now stands, than it would be by having it paraded before the Senate, I would leave him to his repose. I am not willing that one man should have his reputation fairly established, as my friend from Tennessee says, by dragging one hundred others with him, who think their reputation would be blasted by this sort of investigation.

I take it for granted that those who believe they have a fair record behind, and are willing to stand the test of investigation, have sent in their memorials, and have demanded the investigation; and though Congress might sit until the end of this century, I would give it to them, and give it to them to their heart's content. If a record shall be brought here which will not stand the test, I notify them, I notify their friends, and all the world, that I will discuss their private characters with all the freedom with which I would express my views on a public measure, because they come here to demand it.

I will not assume in advance, by any vote of mine, that the Committee on Naval Affairs of the Senate will not discharge their duty by investigating this matter to the bottom on each man's distinct and separate petition. I think I can see in this whole proceeding here a disposition to get all these officers off by making a general commotion and general row over the whole thing, so that the responsibility shall rest equally alike upon the innocent and the guilty; and those half-dozen or so of innocent men who have been discharged, are to drag the great car which is to carry them all back again to place. I am against that. I believe men have been dismissed who ought to have been dismissed; I believe men have been furloughed who ought to have been furloughed; I believe men have been put on the reserved list who ought to have been put there. That some have been dismissed who ought to have been retained, I have no question. I am for winnowing the whole matter, and for getting the wheat out of the chaff, and taking care of the wheat and throwing the chaff to the four winds of heaven. I do not mean, so far as my vote or my action is concerned, to take all the chaff, with a few grains of wheat, back again.

If I am not mistaken, the distinguished senator from Kentucky [Mr. Crittenden] advocated the idea, and certainly made an argument to prove that the whole law might be repealed, with a declaratory clause that things should be restored to their former position; in other words, that you should treat the law as a certain election was once treated in a sister state—as though it had never been passed. I shall not take issue with the distinguished senator from Kentucky on a law point; but I wish to make a suggestion. The repeal of the law, with a declaration that things shall be restored to the position which they occupied before the law was passed, could mean nothing else than that the Secretary of the Navy and the President had so bunglingly executed the law that they had thrown things into inextricable confusion, and that therefore it was necessary to rub out all that had been done, and make a new start. What else can it mean but that they not only failed to execute the law in its true spirit, and according to its true intent, but that they have made "confusion worse confounded," so that there is no possibility of making sense out of their proceeding. Sir, when you send an act to the President to be approved, with that implied declaration on its face, do you think he will approve it? Do you think he will go for upsetting all that he has done under the law, when your declaration can amount to nothing else than that his proceeding is so foolish, and so absurd, and so utterly without order, that you can make nothing out of it? I do not know what he would do in such a case. I am not ashamed to acknowledge that my relations with him are not of a character to justify me in representing him here, as I do not represent him; but he is

President of the United States, and I suppose, indeed I know, that he has a full and proper appreciation of the dignity of his position, and of the rights which attach to it. If you should undertake, by an act of this nature, to make him stultify himself, to make him admit, by the approval of your act, that he had so bunglingly executed the law of Congress that the whole thing was thrown into utter confusion, I take it for granted he would say, "I saw clearly through the thing from the beginning; I know what I meant; this is a trick of politicians to get me into difficulty; and I do not mean to put my signature to my own death-warrant." I take it for granted he would take some such view as that.

Now, sir, I understand that we have already before us, if not directly, at least sufficiently for us to comprehend them, two propositions for getting out of this difficulty. One of them is to keep open the places in the navy that shall be made vacant by death or resignation, to be filled by officers who have been improperly dismissed from the service; in other words, instead of carrying on the line of promotion in regular order, that those vacancies shall be left open, so that men who have been improperly dismissed may be restored. Some senator the other day made a good deal of complaint about the case of Commodore Stewart. It so turns out—and I mention it certainly with as much regret as any other senator can feel—that the position from which he was displaced is already vacant. If the President, in his wisdom, should think proper to restore Commodore Stewart, there is the place ready, waiting for him, in consequence of the unfortunate death of one of his associates. Vacancies in the same way will occur in every grade of the service which may be filled by nominations by the President. If this does not satisfy us, another plan is presented of passing a law providing for a sufficient number of temporary captains, commanders, and lieutenants, to take in all who have been unjustly dismissed from the service.

I am ready to go for either of these propositions; I have no choice between them. If the judgment of the Senate shall be against both, I shall then be ready to go for anything else which shall be suggested from any quarter which shall do perfect and entire justice to all parties; but as I said to the Senate on a former occasion, and as I now repeat, I do not mean to vote to restore things as they stood before the law, even though I may have the power to do it. In the first place, I do not believe you have the power to do it; and if you had, I do not believe you ought to exercise it. If any injustice has been done, at least half a dozen modes may be pointed out by which you can do justice to those who have been wronged. There does not exist, there cannot by possibility exist, any sort of necessity for your repealing the law with the declaration that things shall be restored to the position which they occupied before the law was passed. I felt it due, Mr. President, to the position which I occupied in this matter, in consequence of some remarks which I made on a former occasion, to say this much. I do not think I shall ever allude to the subject again.

Mr. JONES, of Tennessee. I wish to ask my friend from Mississippi a question before he resumes his seat. I do not mean to follow him in his argument. I understand him to assume that this is the act of the President, and that the responsibility is with the President, because all power over the subject is vested in him. His whole argument goes on the assumption that the President is omnipotent in all questions of re-

moval, and that therefore the President is responsible for this whole thing.

The senator tells us that there are two remedies. What are they? One, to keep open the vacancies that may occur by death or resignation; and the other, to provide for a temporary increase of the grades of the navy.

Does not the omnipotence of the President in dismissing apply just as strongly in restoring as in dismissing? What is the use of talking about your remedy when this power of omnipotence has to be consulted at last? I do not believe in the omnipotence of any man; but if the President alone is responsible for this proceeding, being omnipotent in removals, he is equally omnipotent in restorations and nominations.

I can tell my honorable friend, however, that the President is not so omnipotent as he supposes. That was manifested in the case of a very great and good man, for whom I cherish as kind feelings as any senator on this floor, and more so than some do. The contest with him showed that no president can be considered omnipotent. Have you not seen promotions in the army of the United States suspended here for two or three years, on the single application of one man? Where, then, is the omnipotence of your President? Have you not seen nominations sent here, and sent back to him, and returned to us, and sent back to him again, and kept in abeyance until the voice of the sovereignty of the states of this Union was heard in the confirmatory power of the Senate? He is not omnipotent; and so far as I am concerned, I shall never surrender that question; I will never vote to confirm one man whose nomination he sends here until I think the injured men have had a fair hearing. The Senate have refused, on many occasions, to confirm nominations; they have a right to refuse again; and the omnipotence of the President is not an argument that extends far with me.

Mr. BROWN. I said nothing about the omnipotence of the President. With all due deference to the acumen of my friend from Tennessee, I must say that I said nothing from which, in my opinion, he could have drawn any such inference. I spoke of the President's powers under this law. I said that the law itself gave him the right to approve the action of the board, and that until it was approved by him, it amounted literally to nothing. If the President had chosen to withhold his approval from the action of the board, things would have stood precisely as they did before the law was passed. If he had chosen to approve in part, and to disapprove in part, it was his right to do so. My position was, that the action of the board amounted to nothing without the approval of the President; that it was simply an advisory body; and that therefore the censure heaped upon the board was unjust in every sense of the term.

The senator from Tennessee says, he will not vote to confirm nominations. Possibly, I may agree with him in that respect. That it is the right of the Senate to reject the nominations, one and all, is true beyond all controversy. The question beyond that is, as to the position in which you will leave the navy if you do reject the nominations which the President has made to fill the vacancies which have been occasioned; and when the first nomination shall be taken up for confirmation, it will be time enough to discuss that proposition. The dealing which we have now, is not as to the point whether we will confirm nominations, but it

is, as I understand the discussion to-day, as to whether the whole censure of this proceeding shall rest on the board for having made certain recommendations which the President has approved.

Now, sir, we all know perfectly well that it is the right of the President to remove men from office—a right which he exercises every day in civil life. He removes a foreign minister, or a cabinet minister, or the collector of one of your important ports, or any other officer that you choose, or whole scores of them together; and he sends in nominations of gentlemen to take their places: is it your right to demand of the President why he made those removals? No. If you think the removals have been made from improper motives, and without just and proper reason, you may reject the successor and leave the office for the time being vacant; but you cannot, I maintain again, demand of the President why he made the removals. That attempt was tried during the days of "Old Hickory," and he resisted it, and very properly resisted it, as an encroachment on his rights as the executive of the nation; and he never would assign reasons why he dismissed anybody from office. He would not do it because you had no right to demand it. You had no right to demand it in matters relating to offices in civil life; and if you had no right to make the demand in such cases, I maintain that you have no right to make the same demand in reference to men in the navy or army service. You may, as the senator from Tennessee suggests, refuse to confirm the nominations of the successors of those removed. That is your privilege, and that is the whole extent of it. If you fail to be satisfied that the man was removed for proper cause, you may, on that account, if you choose, refuse to confirm his successor, and leave the office vacant. That is your privilege; but it is the privilege of the President to give reasons for the removal, or to refuse to give them, according as he thinks proper. This is my understanding of the rights of the different departments of the government.

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## BADGER AMENDMENT.

SPEECH IN THE SENATE OF THE UNITED STATES, MARCH 20, 1854, ON THE  
BADGER AMENDMENT.

THE honorable senator from North Carolina having felt it his duty to give to the Senate and the country the reasons which influenced him, and which, in his opinion, justified him in moving the proviso when the Nebraska bill was under consideration, and the two distinguished senators from South Carolina and Virginia having justified themselves before the Senate and the country in voting for that proviso, I wish to say a word in justification of myself for having voted against it.

I was one of five southern men who recorded their votes against that proviso; and though I had stood alone in the Senate, I should have voted against it. When I was called upon first to vote for the Nebraska bill, I understood that its only dealing with the Missouri compromise was



to repeal it. And the reason given for that repeal was, as I understood it, that originally it had been passed in violation of the Constitution, and in derogation of the rights of the southern people. This being so, a returning sense of justice, as I supposed, had induced our northern brethren to come forward to strike it from the statute-book. That, I understood to be what Congress was called upon to do, and all that it was expected to do. If that had been done, and nothing more; we should, in my judgment, have been restored to the position which we occupied before the passage of the Missouri act. Upon what ground does the South claim its repeal, and upon what ground is it conceded to us, let me ask honorable gentlemen? We claim its repeal, because originally, as I said before, it was passed in violation of the Constitution, and in derogation of our rights; and it is to be repealed, that we may be restored to the rights which we had before it was passed. If we are not restored to those rights, I submit to you, Mr. President, and to the country, the repeal of it is not worth a rush to us. Why should we work ourselves into a passion, excite the country, and revive all this slavery agitation upon a mere abstraction? and I hold that it is an abstraction, unless we are restored to the rights we had in the territory before the passage of the Missouri compromise. If we get nothing by the repeal, why repeal it? I dare say that the Nebraska bill stands, in the minds of southern people to-day, as it stood in yours and mine at the beginning—as a simple proposition to repeal the Missouri compromise, and nothing more. When the distinguished author of the bill [Mr. Douglas] came forward with his amendment—the one which the senator from North Carolina read this morning, and which I would reproduce if I had it before me\*—I hesitated long as to whether I would vote for it. It was doing a little more than I felt we had contracted to do in the beginning; but finding older senators, men of more experience, more learning, more ability in every way, disposed to go for it, I finally gave up my objections.

I hesitated, sir, because, among other things, I saw in it a departure from the original liberal and just purpose of restoring us to the position we had before the act of 1820. If we had the right to introduce slaves into this territory before the restriction act of 1820, the repeal of that act would have restored us to that right. The amendment moved by the senator from Illinois seemed to me to be a denial of that restoration. But, as this construction did not meet the sanction of older senators, I abandoned it. My anxiety to act in harmony with my southern friends gave an easier impulse to my decision. Imagine my surprise when I heard the senator from North Carolina gravely contending that the amendment proposed by the senator from Illinois precluded the idea of restoring the South to its original position, and that his proviso only expressed, in language more distinct, what had already been expressed in adopting the amendment of the senator from Illinois.

Allow me to say, Mr. President, that I by no means concur with the senators from North Carolina and Virginia, that this bill is all the South has ever asked. If their reading of it is correct, it falls immeasurably

\* This is the amendment alluded to:—"It being the true intent and meaning of this act, not to legislate slavery into any territory or state, nor to exclude it therefrom, but to leave the people thereof perfectly free to form and regulate their domestic institutions in their own way, subject only to the Constitution of the United States."

short of that point. The South has asked to be left alone in the enjoyment of all her rights—not to be legislated into or out of the territories. In 1820, Congress legislated her out of Nebraska. In 1854, it is proposed to repeal this unjust legislation, and restore her to her lost position. But the senator from Illinois comes forward with an amendment, which the senator from North Carolina insists precludes this idea (I take it for granted no one questions that but for the act of 1820 the southern people could have introduced slavery into this territory). The idea of restoring the French laws by repealing the Missouri act is wholly dispelled, we are told, by the language of the amendment first proposed. But to make assurance doubly sure, the senator from North Carolina brings in his proviso, which says in terms that no law existing prior to 1820, giving sanction or protection to slavery in these territories, shall be revived or put in force. Suppose there were laws in these territories, prior to 1820, sanctioning and protecting slavery, as I think there were, and that you repealed them by the act of 1820—as you did, what does justice demand of you now?—not to legislate slavery into the country, no one asks that, but to repeal your repealing act, and put us back where you found us. This would be non-intervention. But it is not non-intervention for you to keep in force the laws of Mexico, which abolished slavery in Utah and New Mexico, and to repeal the laws of France, which tolerated slavery in Nebraska and Kansas.

I cannot concur with my friend from North Carolina in the opinion, that in the simple act of repealing the Missouri Compromise, and thereby restoring the laws in force before its passage (admitting that those laws sanctioned and protected slavery), we should be legislating slavery into the country. We found laws in force there sanctioning slavery; we repealed those laws in 1820. If, in 1854, we repeal the repealing act, and thereby place the original law in force, the case will stand as if we had not acted at all. So far from legislating slavery into the country, we shall simply leave things where we found them.

Mr. President, in voting for the amendment of the senator from Illinois, I stood on the outer verge of the precipice. One hair's breadth further, I felt, would put me overboard. When the senator from North Carolina brought forward his proviso, I said promptly I would not vote for it. The senator has explained that it makes no alteration in the text of the bill as it had been amended. In this he and I differ. But suppose it does not; then why ask us to vote for it? If it left us where we stood before, why was it urged upon us?

I felt at the time that it was another concession; that it was still another and wider departure from the original purpose of the bill—the simple purpose of repealing the Missouri act, and leaving the South where we found her—and so regarding it, I could not consent to vote for it. If the South is not restored to her position, is it not a mockery to talk about non-intervention? She has lost her position in the territories, and by the acts of Congress, and by those alone. She had protection for slaves by virtue of the French laws prior to 1820, in these territories. You took it away by the act of 1820. You not only do not restore this specific right in 1854, but you have said, in so many words, it shall not be restored.

I beg leave to dissent from another view of this subject taken by the distinguished senator from North Carolina; but—no, I will not pursue

the discussion. I simply rose to give the reasons which influenced me in voting against the proviso of my friend from North Carolina. I felt called upon to do this from the course the discussion had taken this morning; and now having done this, and not desiring to widen the field of debate by the introduction of new topics, I take my seat.

## AMERICAN FLAG IN MEXICO.

SPEECH IN THE SENATE OF THE UNITED STATES, ON THE 7<sup>TH</sup> OF JANUARY, 1856, ON THE CLAIMS OF GENERAL JOHN A. QUITMAN TO THE HONOR OF HAVING RAISED THE FIRST AMERICAN FLAG IN MEXICO.

MR. FOOT. I ask the Senate now to proceed to the consideration of the resolution which I introduced this day week, in reference to Colonel Roberts. I understand that the senator from Mississippi [Mr. Brown] desires to submit some remarks upon it before it shall be referred to the Committee on Military Affairs, that being the motion pending. I introduced at the same time, a joint resolution to request the President to cause a sword, with suitable devices, to be presented to Colonel Roberts, in testimony of the high sense entertained by Congress of his gallantry and good conduct at the storming of Chapultepec and taking of the city of Mexico; but inasmuch as the Senate are acting upon a determination not to receive bills or resolutions requiring the coördinate action of the other House, until that branch of Congress shall be organized, that joint resolution is withdrawn for the time being.

The motion was agreed to: and the Senate resumed the consideration of the following resolution:—

*Resolved*, That the report of Benjamin S. Roberts, Captain of the Rifles, made to General Twiggs, on returning to him the American flag which had been the first planted upon the Capitol of Mexico, and which he had intrusted to the keeping of Captain Roberts in the storming of Chapultepec, and the taking of the city of Mexico, bearing date "City of Mexico, 17th September, 1847," be taken from the files in the office of the Secretary of the Senate, and be printed; and that the President *pro tempore* of the Senate cause an engrossed copy thereof to be deposited in the Department of State with the flag whose history it gives, and which has already been deposited in said department by order of the Senate.

The pending question was on Mr. Foot's motion to refer the resolution to the Committee on Military Affairs.

MR. BROWN. Mr. President, it will be recollected by the older members of this body that the flag mentioned in the resolution was introduced into the Senate on the second of June, 1848, by Mr. Davis, then a senator from Mississippi, and now Secretary of War. On the 1st of July of that year, as is shown by the journal, he presented a document in relation to that flag. The document then presented is the one which is now called for from the files, by the senator from Vermont. On the introduction of that document, as is shown by the debates in Congress, a discussion arose in the Senate between Mr. Davis and Mr. Foote, of Mississippi, which the curious on that subject may find at page 890 of the Congressional Globe of that year. I shall not detain the Senate

by reading it; it is sufficient for me to remark that Senator Foote thought that, in the paper which was then presented, injustice was done to Major-General Quitman, who commanded the forces under whom, and at the head of whom, the first flag was placed upon the Capitol of Mexico. The paper which is offered does not disclose the fact that General Quitman was in the action at all, had anything to do with the command, or gave any orders which led to the planting of that flag upon the walls of Mexico. Because of this unintentional injustice—I am willing to admit that it is unintentional—to the major-general commanding the forces, senators at that day objected to having this paper placed upon the files of the State Department, as giving the correct history of the transaction. It is noted in the debates that an angry controversy arose in reference to it. That portion of the debates has been suppressed, and very properly suppressed in my judgment.

As I intend to make the paper part of my remarks—I mean the one alluded to by the senator from Vermont, which he desires to have printed, and enrolled on parchment, and filed in the State Department—I send it to the Secretary's desk, and ask to have it read.

The Secretary read it as follows:—

CITY OF MEXICO, *September 17, 1847.*

SIR: I have the honor to return the American flag you intrusted to my keeping in the storming of Chapultepec and the taking of the city of Mexico. Your charge to me was: "I expect that *flag* to be the *first* planted upon the Capitol of Mexico." The commission has been executed, and the first American flag that ever floated upon the Palace of the Capitol of Mexico is now returned to you.

It was also the *first* planted on the five-gun battery stormed and carried by the Rifle regiment between Chapultepec and the Garita.

It was also the *first* planted on the batteries at the Garita, and the *first* on the Citadel of Mexico.

It was carried by Sergeant Manly, of "F" Company, whom I selected to bear so distinguished a flag, and the anticipations I entertained of his doing honor to the banner of his country were not disappointed. I desire to commend him to your special consideration.

This flag would have been returned through him, but for a severe wound which confines him to his quarters. It is proper that I should state that I was not with the flag when planted on the battery at the Garita, and when planted on the battery between the Garita and the city, having been detained to guard the prisoners taken at the five-gun battery assaulted by my storming party. On inspection, you will perceive that this flag has been pierced six times by the balls of the enemy.

I have the honor to be, with high regard, &c.,

B. S. ROBERTS, *Captain Rifles.*

General D. E. TWIGGS, *Commanding Second Division.*

MR. BROWN. Mr. President: It will be seen, from the reading of that letter, that I was correct in saying that it makes no mention whatever of Major-General Quitman. Captain Roberts seems to have received this flag from General Twiggs, who was not in command at the time when this service was performed. It will be further remarked, that Captain Roberts states in his dispatch that the flag was "the first planted on the five-gun battery stormed and carried by the rifle regiment between Chapultepec and the Garita." He also says that it was "the first planted on the batteries at the Garita, and the first on the citadel of Mexico." He afterwards remarks, however:—

"It is proper that I should state that I was not with the flag when planted on the battery at the Garita, and when planted on the battery between the Garita and the city."

If Colonel Roberts was not present, the history of the transaction ought to state how he came in possession of the fact, that this precise flag was the first raised at those two points, for he admits himself not to have been personally present, and, therefore, he must have derived his information from some other quarter. Out of that has grown some controversy in which I do not wish to entangle myself; but it is better, when we are settling a transaction of this sort, in which the reputation of gentlemen who have rendered distinguished services to the country is somewhat involved, to turn our attention to the report of the General-in-Chief. I ask that the committee who shall have this question in charge, will turn their attention to Major-General Scott's report, dated "Headquarters of the Army, National Palace of Mexico, September 18th, 1847," to be found in the first volume of Senate Documents, first session, thirtieth Congress, 1847 and 1848, beginning at page 375. From that paper it will be seen that the General-in-Chief, after giving an account of certain consultations between officers of the army, and stating the views expressed by them, says:—

"Those views I repeatedly in the course of the day communicated to Major-General Quitman; but being in hot pursuit—gallant himself and ably supported by Brigadier-Generals Shields and Smith—Shields badly wounded before Chepultepec, and refusing to retire—as well as by all the officers and men of the column, Quitman continued to press forward under flank and direct fires; carried an intermediate battery of two guns, and then the gate, before two o'clock in the afternoon, but not without proportionate loss, increased by his steady maintenance of that position."

After giving some further account of the day's transactions, he says:—

"Quitman within the city, adding several defences to the position he had won, and sheltering his corps as well as practicable, now awaited the result of daylight under the guns of the formidable citadel, yet to be subdued."

After the whole fighting was over, General Scott gives an account of a visit of a deputation of the city—the city council—who waited upon him, for the purpose of surrendering the city on terms which he promptly rejected, and insisted upon taking it upon his own terms. After the interview he says:—

"At the termination of the interview with the city deputation, I communicated, about daylight, orders to Worth and Quitman to advance slowly and cautiously (to guard against treachery) towards the heart of the city, and to occupy its stronger and more commanding points. *Quitman proceeded to the great plaza or square, planted guards, and hoisted the colors of the United States on the National Palace, containing the halls of Congress and executive departments of federal Mexico.*"

Now, sir, when it is proposed to do honor to national flags because they were first planted upon the walls of Mexico, I do not choose that the name of the major-general in command, especially when that major-general is a distinguished citizen of my own state, shall be wholly omitted from the record without some effort on my part, as his representative in this body, to see justice done him. I am as willing as the senator from Vermont to award all possible honors to Captain Roberts, but I will never consent to see the honors of the nation bestowed upon a captain in the line to the exclusion of his major-general; and especially when, in doing honor to that captain, for aught that appears on the paper, Major-General Twiggs, who was not in the field at all upon that

occasion, is represented as the general who gave the order to bear the flag. Sir, the man who in after years shall examine the archives of the State Department and find this paper there, if he knew nothing else of the transaction, would be very apt to conclude that Major-General Twiggs was in command, and that Major-General Quitman was not in the field at all, whereas the reverse was the case.

I hope that the committee who shall have this question in charge will sift it to the bottom. Let Captain (now Colonel) Roberts have all the honor that is due to him. Heaven knows I would not pluck a solitary leaf from the laurel that adorns his brow. That he is a gallant soldier, I am perfectly willing and ready to admit. That he exposed his person and endangered his life in defence of his country, I am as ready to acknowledge as the senator from Vermont. But I am not willing to admit that he planted the first flag that was ever placed upon the walls of Mexico, and did it of his own will—or by the order of Major-General Twiggs.

Sir, I have here a letter to which these squabbles gave rise when this question was up before. It is a letter written by Captain Roberts himself, dated St. Louis, Missouri, July 12, 1848. I send it to the secretary's desk, and ask to have it read. I present this letter as the true history of the transaction rather than the one which is found on the files, and which my friend from Vermont proposes to honor. Although it does not, I think, come up to the history of the transaction as detailed by Major-General Scott, the General-in-Chief, it does make honorable mention of General Quitman, who was in command.

The secretary read the letter, as follows:—

ST. LOUIS, MISSOURI, July 12, 1848.

*To the Editor of the "Union":*

I have noticed, through the Washington correspondent of the "Journal of Commerce," of date July 1st, giving the debate in the Senate of that day, that misunderstandings, out of which difficulties may grow, have arisen between the friends of Generals Twiggs and Quitman touching the *flag* presented by General Twiggs to Congress. It may be proper before mischief can arise, or these misunderstandings grow further, to correct the errors that seem to be entertained relating to the history of this flag. *I know its entire history. It is as follows:*

On the 12th of September, General Smith called for two hundred and fifty picked men from General Twiggs's division, as a storming party for the assault of Chepultepec. I was selected by General Smith to command the party from his brigade, and, after the party was organized, was taken by him to General Twiggs's headquarters, where was this flag, which General Twiggs gave to me, saying in substance, among other things, "This is a flag I wish to go with the storming party from my division. Let me hear that it is the first flag on Chepultepec, in the city, and on the Capitol." Six non-commissioned officers and privates were selected from the Rifle regiment to bear this flag at the head of the storming column.

The storming party from this division (commanded by Captain Casey, Second Infantry) reported to General Scott, at Tacubaya, before sundown, and was assigned to the command of General Quitman; and from that time, until the flag was raised upon the Capitol, it was under his control, and all the movements of the storming party carrying it were under his eye and direction.

This storming party stormed and carried the strong five-gun battery commanding the Tacubaya road at the base of the hill in the rear of Chepultepec, and *this flag was the first* planted on that battery. It was also *the first flag* planted on the strong battery midway on the road between Chepultepec and the Garita of Belen, which was stormed and carried by the Rifle regiment, supported by the South Carolina regiment. It was also *the first flag* planted on the Garita of Belen, which work was also stormed by the Rifle regiment, supported by General Smith's entire brigade, and General Quitman's entire division. The storming of these three batteries was

directed by *General Quitman* in person, with the assistance and support of *General Smith*.

The fighting of the 13th ended with the day; and at daylight next morning, *General Quitman* formed his division (*General Smith's* brigade in front), and entered the city. He took possession of the citadel; and by his order, delivered to me through *General Smith*, this flag was raised above that mighty fortress. The division advanced, led by *Generals Quitman* and *Smith* on foot, and took possession of the Capitol, when this flag, by the order of *General Quitman*, delivered to me by a staff-officer, was raised, displaying *the first American banner* above the National Palace of Mexico. This is the entire history of the flag. I understood it to be the property of *General Twiggs*, and at his request returned it to him with my written report. It was borne in these actions by troops of his division, detached from his immediate command, and placed under the orders of *General Quitman*.

If *this flag* is to become of any historical interest, its history should be truly told; and if any merit is supposed to attach to the fortune or accident of raising the first flag upon the Capitol of Mexico, it is just to *General Quitman*, to have it known it was done by troops he commanded in person and under his orders.

I am, sir, very truly yours,

B. S. ROBERTS, *Captain Rifles*.

Mr. BROWN. Mr. President: If that had been the report which it was proposed to print by order of Congress, and to transcribe on parchment and file in the State Department, as containing the true history of this flag, there would probably have been no controversy about it. Here *Captain Roberts* again repeats that it was the first flag planted at three different points, but he admits himself not to have been at two of them. He omits to mention how he came into possession of the knowledge of those facts, but they are yet of sufficient consequence to have given rise to controversy, and there is difference of opinion as to whether it was the first flag planted on these points. To that matter I beg to call the attention of the committee, when they shall take this subject into consideration. I desire that the letter which has just been read by the secretary, at my request, shall go to the committee, and shall be considered by them in connection with this subject.

With these remarks, I am willing to let the subject go to the committee. If credit is due to *General Quitman*, I want him to have it. If it is not due to him, I know he would scorn to take it. And now, it is but just to him, to say that, though he is a member of the House of Representatives, I have not made these remarks at his request, nor by his solicitation, nor even with his knowledge; but his reputation belongs to the state of Mississippi, and, as one of her senators here, I have felt bound to protect it.

## OUR RELATIONS WITH ENGLAND.

SPEECH OF HON. A. G. BROWN, OF MISSISSIPPI, IN THE SENATE,  
MARCH 11, 1856.

The Senate having under consideration the three million bill, Mr. Brown said:—

MR. PRESIDENT: As the Senate is probably aware, it is not my purpose to address it especially on the provisions of this bill. Heretofore I have forbore to take any part in the debates which have taken place in the Senate in reference to our difficulties with Great Britain. I have pursued this course because, among other reasons, I thought it best to wait until the whole correspondence was before us, that I might have an opportunity of examining it, and speaking intelligently in reference to it, when I spoke at all. I wish now to advert very briefly to the two points of difference between this government and that of Great Britain: first, in reference to the construction of the Clayton and Bulwer treaty; and, secondly, and perhaps more at length, in reference to the enlistment question.

In this whole controversy, from the beginning down to the present time, I think our own government has been right; but I have no war speech to make in reference to the matters of difference. I shall be most happy, as an American citizen, and as a representative of one of the states of this Union, if these difficulties can be adjusted without a resort to arms. While I shall speak plainly, and call things by their right names, I mean to utter no expression designed to excite a war spirit in the country.

I must confess, sir, that I have been unable to understand how it is, or why it is, that so much difficulty has been found in reaching a proper conclusion as to what is the true construction of the now somewhat celebrated treaty, commonly called the Clayton-Bulwer treaty. It has seemed to me from the beginning, as it does now, that the language is susceptible of but one construction. I do not know how I shall proceed to demonstrate that which is already so clear that no language can make it plainer. In the first article it is stipulated, that "neither will ever erect or maintain any fortifications commanding the same"—that is, the canal—"or in the vicinity thereof, OR OCCUPY, or fortify, or colonize, OR ASSUME, OR EXERCISE ANY dominion over Nicaragua, Costa Rica, the Mosquito coast, or any part of Central America."

When a party is obliged not to occupy, and not to exercise any dominion over a particular country, the ordinary, plain, common sense of man would conclude that he could not remain in that country—that, being there, he must withdraw, because if he remains in the country he must necessarily occupy the country, and if he occupies it he must necessarily exercise authority over it. I know, sir, that before this treaty was ratified, the British negotiator addressed a note to the American Secretary of State, in which he said:—

"In proceeding to the exchange of the ratifications of the convention signed at Washington on the 19th of April, 1850, between her Britannic Majesty and the



United States of America, relative to the establishment of a communication by ship canal between the Atlantic and Pacific oceans, the undersigned, her Britannic Majesty's Plenipotentiary, has received her Majesty's instructions to declare that her Majesty does not understand the engagements of that convention to apply to her Majesty's settlement at Honduras, or to its dependencies. Her Majesty's ratification of the said convention is exchanged under the explicit declaration above mentioned."

It therefore appears that the only portion of the country, even in the vicinity of Central America, which, according to the declaration filed at the time by the British negotiator, was not covered by the treaty, was the British settlement at Honduras. The American Secretary and negotiator replied to that note as follows:—

"The language of the first article of the convention concluded on the 19th day of April last, between the United States and Great Britain, describing the country not to be occupied, &c., by either of the parties, was, as you know, twice approved by your government, and it was neither understood by them, nor by either of us [the negotiators], to include the British settlement in Honduras (commonly called British Honduras, as distinct from the State of Honduras)."

Again:—

"It was understood to apply to, and does include, all the Central American states of Guatemala, Honduras, San Salvador, Nicaragua, and Costa Rica, with their just limits and proper dependencies."

These notes were exchanged immediately preceding the exchange of ratifications, and of course after the treaty had been ratified by the Senate. It is, therefore, clear that it was understood on both sides by the contracting parties, at the time when the ratifications of the treaty were exchanged, that the state of Honduras, as contradistinguished from the settlement known as British Honduras, was covered by the treaty. It was understood that the whole of Central America, no matter by what name it was known, was covered by the treaty, and that both parties obliged themselves not to occupy and not to exercise dominion over any part of it. The British government undertook and maintained for a long time, or endeavored to maintain, that she had the right, notwithstanding these plain and stubborn facts, notwithstanding the plain and explicit language of the treaty, to occupy certain portions of the country which she herself admitted to be within the limits of Central America. This was her first claim, but being driven from this position, she subsequently assumed a different ground. On the 10th of January, 1854, Mr. Buchanan informs Secretary Marcy that he had had a conversation with Lord Clarendon in reference to the points of difference between the two governments. After discussing a great number of questions, Mr. Buchanan says:—

"After this we had a discursive and rambling conversation, embracing the Roatan and Belize questions, the Clayton and Bulwer treaty, and several other matters which I do not propose to detail. In the course of it he stated, distinctly, *that this treaty was, in their opinion, ENTIRELY PROSPECTIVE in its operation, and did not require them to abandon any of their possessions in Central America.*"

Here, for the first time, the ground is taken that the treaty is prospective in its operation. The first ground, as I understand, is virtually abandoned, viz: that particular portions of territory are not covered by the general name of Central America; but now, admitting those parts which the British occupy to be a portion of Central America, it is contended that the terms of the treaty are "prospective in their operation,"

and do not require them to abandon those parts which they then occupied.

Now, sir, to the plain, common-sense understanding of most men in private life, this would look very much like an attempt at fraud. Let me suppose, Mr. President, that you and I have a controversy as to the occupancy of a house which has five apartments, I being in the actual occupancy of one of them; and we sign a written agreement that, from a particular date, neither of us will occupy that house or exercise authority over it. If I afterwards assert that I meant by this simply to be left in the possession of the fifth apartment, and that the first, second, third, and fourth were not included, in what position would I stand? If I assumed such ground as that, and went before any intelligent jury in Christendom, and escaped with a very small portion of a reputation for honesty, I should esteem myself singularly fortunate. Such a construction of such a contract would be so palpably an infraction of common sense, that honest men everywhere would declare that I was wilfully attempting to evade and to violate the agreement. Here, Great Britain admits that she did oblige herself not to occupy, or colonize, or exercise dominion over Nicaragua, Costa Rica, Honduras, or any part of Central America; that is, she agreed that she would not occupy the first, second, third, or fourth apartment, or any other apartment in the house; and if she means to execute her contract in good faith, she must do precisely what an honest man would do under like circumstances—not only refuse to occupy the apartments which were vacant before she made the contract, but vacate the one she then occupied. If the treaty found her in possession of any part of Central America, she is obliged to abandon it. Her stipulation is, that she will not occupy or exercise dominion over any part of Central America. She cannot remain, then, without violating the contract. She cannot remain there without occupying the country. She cannot maintain her position without exercising dominion. She must quit the country or violate the treaty.

Suppose, Mr. President, that it shall turn out, in the future examination of this question, that the British negotiator was informed that the words "not to occupy" in the treaty meant "not to take or keep possession" of the country; suppose it shall turn out, in the course of the investigation, that the American negotiator told Sir Henry Bulwer that when we said, "You shall not occupy the country," we meant "You shall not take or keep possession of the country;" suppose this fact is not only known to Sir Henry Bulwer, but to-day, and at all times heretofore, has been known to Lord Clarendon and the whole British government. I am not going to assert that it is so; but I am going to assert that I believe it is so, and I do not make that declaration lightly. I have what I conceive to be good evidence; I do not speak by the authority of the American Secretary [Mr. Clayton], but I have what I conceive to be good authority for saying to the Senate and to my countrymen that the British negotiator was informed that we used the words "not to occupy" as synonymous with the expression "not to take or keep possession of the country." This being so, with what sort of propriety—with what sort of plausibility does Lord Clarendon take the ground that the treaty is simply prospective in its operation? If he was forewarned that he was not to take and not to keep possession of the

country, he was forewarned that the treaty was not to be prospective, but that it was to be present and instantaneous in its operation.

This branch of the subject has been so elaborately debated in the Senate that I do not feel disposed to pursue it at greater length. The light which the distinguished senator from Delaware [Mr. Clayton] always throws on every subject which he touches has been thrown over this question. He negotiated the treaty, and must be presumed to understand what was meant by it better than any one else. He has given us the benefit of his experience and advice on this subject. His age, experience, and political advantages entitle his opinions to great weight; and we all know that he utterly repudiates the British construction of the treaty.

Old senators, who were here and took part in the ratification of the treaty, have given us the benefits of their opinions as to what was meant by it. The distinguished senator from Vermont [Mr. Collamer], then a member of the Cabinet which advised the making and ratification of this treaty, has given us his opinion as to what was meant by it. No where in our country has a single voice been raised to express a doubt as to the rightfulness of our construction of the treaty. Whatever may be thought of it in England, in this country there is but one opinion; whatever may be thought of it among diplomatists, the honest, fair-minded, common-sensed yeomanry of the country will have but one opinion—and that will be, that, when Great Britain agreed not to occupy or exercise dominion over the country, she meant, if there, to go away, and, if not there, to stay away.

I do not like the temper or the spirit in which this negotiation has been conducted on the British side. There seems to me to have been one of two things; either a gross and inexcusable misunderstanding of the facts, or a light and trivial and almost contemptuous treatment of those facts. The impression left on my mind is, that Great Britain, having planted her foot in Central America, is determined, treaty or no treaty, not to withdraw it—to pursue the same policy there which has marked her course in all ages and in all parts of the world. It is the boast of her statesmen that she never abandoned a foothold. I should be as reluctant as any other citizen to see this country involved in a war with any country, and more especially with England; but if she take this position with us, I am free to say, for one, that I would meet her on the ocean and on the land, and stand to her, man to man, until the question of her right thus to disregard her treaty obligation with us is settled. I say, I fear—I do not charge—that this is the disposition of the British cabinet.

I am not, Mr. President, in the habit of paying much attention to what newspapers in this country, or in any other, may say of public men or public measures, further than as they state facts. I hold in my hand, however, a British paper, containing a paragraph of such extraordinary character, that I feel disposed to lay it before the Senate; and those who shall think proper to read the remarks which I am now submitting—not as containing the sentiment of the British cabinet, for that I do not charge—not as containing the sentiments of the British people, for that I do not know—but as certainly containing the sentiments of the editor of a widely-circulated British journal, and as reflecting, it

may be fairly presumed, the sentiments of his readers, who, we are informed, are very numerous.

Mr. CASS. What paper is it?

Mr. BROWN. The London Telegraph.

Mr. CASS. It has the largest circulation of any paper in England, it is said.

Mr. BROWN. My friend from Michigan says it has the heaviest circulation of any paper in England. I call the attention of southern senators to this article:—

“We are afraid there is but one way to settle this dispute, and that is, at the point of the bayonet. The aggressive spirit of the people of the United States requires an humbling, and it is for us to perform the task. England’s mission is to complete the great work commenced by her in 1834, when she liberated her slaves. There are now over three million human beings held in cruel bondage in the United States; fellow-creatures, who are prepared to go through fire and water, even to the very gates of death itself, to escape their republican task-masters; mothers who destroy their children to save them from bondage; fathers who would risk the funeral pyre, like the martyrs of old, to save their little ones from the ruffian planter’s lash! And in that republican country men are burned in the public streets; children torn from their mother’s bosoms, and sold to vice and bondage; and woman with white skins even lashed to death, or compelled to submit to the licentious behest of a brutal owner! There the laws of God and of civilized man are despised, and fellow-beings are bound as brutes and sold as chattels. If, therefore, the United States government deny, and is resolved to question, the right of Great Britain to her Central American possessions, we, the people of the British Empire, are resolved to strike off the shackles from the feet of her three million slaves. And there are those amongst us who will sanctify such a glorious cause; the people of England will deny themselves every luxury to assist their country in a contest more sacred and more glorious than ever formed the watchword of the Crusaders of old, when combating the infidel hosts of a Saladin. If we have not a Richard Cœur-de-Lion, we have one name which will carry liberty to millions, and the emancipation, by ‘*force of arms*,’ of the slaves of the American states will be connected to the end of all time with that rallying word of freedom—Victoria.”

Mr. BUTLER. Will my friend from Mississippi allow me to interrupt him for a moment?

Mr. BROWN. Certainly.

Mr. BUTLER. I feel that it is an act of justice, in connection with the extract which my friend has read from the British print, atrocious as it is—and the very recital of its falsehoods makes my blood boil—to say that I have seen, in a newspaper of the United States, having, it is said, a more extensive circulation than any other, a statement scarcely less atrocious than the one which he has read from the English newspaper. I know of no part of the United States which would join more heartily in maintaining the honor of the common confederacy than the Southern States; but, at the very time when war is threatened, I read, in a newspaper sent to me the other day—sent to me, perhaps, because it was feared that otherwise I would not read it—a statement that a war with Great Britain would have other results than those which have been contemplated in the maintenance of treaties; and that one result would be that the Virginia capes, the Carolina shores, and all the southern coast would be open to the enemy’s ships; that there could not be found ten thousand fighting men among the effeminate owners of slaves; but that fifty thousand well-armed, trained, and disciplined soldiers could be brought together in a short time to put down their masters, and thus effect the liberation of this class of people.

Now, sir, atrocious as is the sentiment of the paper from which my friend from Mississippi has read, I would not put in comparison with it one who claims the name of brother. I can meet an open enemy; but in the case of one who claims the relation of brother, and utters such sentiments, I would rather see him burnt in a bonfire of his own papers than undertake to countenance him. I have no doubt that the English paper, in some measure, got its information from the paper to which I allude. My friend from Mississippi has indicated a spirit to maintain the honor of this country, and the South entertains as much of that spirit as any other portion of the Union; and yet, at the very time when we are manifesting it, a newspaper from England is quoted, deriving, I have no doubt, its information from the newspaper to which I have alluded, which has one of the most extensive circulations in the United States.

Mr. BROWN. Mr. President, my friend from South Carolina has anticipated most of the comment which I intend to offer on this article. I know very well that articles written in this spirit have been published in American newspapers; and when so published they can be meant for but one purpose, and that is the same which this English writer has in view—to stir up discord, and finally to break up this government. I called attention to the article for the purpose of showing that there was a certain portion—how numerous I have no means of knowing—of the British people who are actuated by the atrocious spirit manifested by this article. Be they few or many, their movements deserve watching. I must do the senator who handed me that paper [Mr. Foot] the justice to say that he attended it with this commentary: “However we may differ and wrangle among ourselves about slavery or anything else, if Great Britain dares to touch the humblest state in this Union, or the meanest right which belongs to an American citizen, you, sir, will find the North as ready to strike in vindication of the injury as any portion of the South.” The sentiment was a proper one. It comes from a northern senator. If that is the spirit which actuates the whole northern people, I shall be ready to defy the British lion, and tell him that if he wishes to strike for what he chooses to call liberty in this country, let him strike at once—we are prepared for the blow. But I cannot and will not overlook the fact, that while the British press is thus threatening us with terrible chastisement, the British cabinet have acknowledged their weakness by a mean attempt to recruit their Crimean armies in this country.

I shall not, Mr. President, review that portion—that childish portion, as I conceive it to be—of the correspondence which relates to the subject of arbitrating this difficulty. I believe that no serious proposition has ever been submitted from the British government for an arbitration. If any has been or shall be submitted, I trust that our government will promptly reject it—not for the reason assigned yesterday, hypothetically, by the senator from New Hampshire [Mr. Hale], but for the reason that a great republic like ours can scarcely expect justice in a contest between us and England, where a crowned head is the umpire. I am not prepared to say that I should go for arbitration under any circumstances; but the only umpire whom I would recognise or tolerate would be a board composed of eminent individuals, having no connection with government. I think the reply of Mr. Buchanan was

eminently proper, when he said laughingly—he might have said it with great propriety earnestly—to the British minister: “You are fighting the only power in all Europe or in the world who would have the boldness and independence to decide this question justly.” As to allowing a petty German prince—a mere stipendiary on the bounty or dependency on the forbearance of Great Britain—to arbitrate a great question like this between her and us, I am most emphatically against it. It would be surrendering without a struggle a right with which we cannot part.

Great Britain has thrown herself across our transit from the Atlantic to the Pacific. She cannot occupy or exercise dominion over any part of Central America with any advantage to herself or without serious injury to us. She has agreed not to take or keep possession of the country, and she must fulfil her contract. We make no child’s bargains with anybody, and especially one affecting the national safety.

I pass now, sir, to the remaining point of difference between the two governments. I take it up on the 21st of April, 1854, when Mr. Crampton commenced the correspondence by notifying our Secretary of State that the British government would not issue letters of marque and reprisal, and requesting the strict neutrality of this government in the pending war between the Allies and Russia. He said:—

“Her Britannic Majesty’s government entertains the confident hope that the United States government will receive with satisfaction the announcement of the resolutions thus taken in common by the two allied governments; and that it will, in the spirit of just reciprocity, give orders that no privateer under Russian colors shall be equipped or victualled, or admitted with its prizes, in the ports of the United States; and also, that the citizens of the United States shall rigorously abstain from taking part in armaments of this nature, or in any other measure opposed to the duties of a strict neutrality.”

On the 28th of April, 1854—just one week afterwards—Mr. Marcy replied, stating that he had submitted Mr. Crampton’s communication to the President; and added that he was directed by the President

—“to express to her Majesty’s government his satisfaction that the principle that free ships make free goods—which the United States have so long and so strenuously contended for as a neutral right, and in which some of the leading powers of Europe have concurred—is to have a qualified sanction by the practical observance of it in the present war by both Great Britain and France, two of the most powerful nations of Europe.”

In the same despatch, Mr. Marcy said:—

“The undersigned is directed by the President to state to her Majesty’s Minister to this government, that the United States, while claiming the full enjoyment of their rights as a neutral power, will observe the strictest neutrality towards each and all the belligerents. The laws of this country impose severe restrictions not only upon its own citizens, *but upon all persons* who may be residents within any of the territories of the United States, against equipping privateers, receiving commissions, or *enlisting men* therein, for the purpose of taking a part in any foreign war. It is not apprehended that there will be any attempt to violate the laws; but should the just expectation of the President be disappointed, he will not fail in his duty to use all the power with which he is invested to enforce obedience to them.”

Now, sir, three things are made plain by this correspondence: First, that Mr. Crampton obtained the required pledge of unqualified neutrality on our part; second, that he was notified of the stringency of our laws, and therefore put on his guard; and third, that he was told

the President would most unquestionably enforce those laws. Therefore, for the enforcement of the laws, he certainly has had no just ground of complaint. And he cannot, after the date of this letter, plead that he was not fully advertised as to what the law was. Nothing further occurred until the 9th of June, 1855, when Mr. Marcy wrote to Mr. Buchanan that it had come to the knowledge of this government that "a plan was on foot to enlist soldiers within the limits of the United States to serve in the British army, and that rendezvous for that purpose had been actually opened in some of our principal cities."

It cannot escape the attention of the most casual observer, at this point, that the British government, the first to ask neutrality, was the first to violate her obligations. Mr. Marcy, in this despatch, says:—

"When intimations were thrown out that the British consuls in this country were aiding and encouraging this scheme of enlistment within our limits, Mr. Crampton, her Britannic Majesty's Minister to this government, showed me the copy of a letter which he had addressed to one of them, disapproving of the proceeding, and discountenancing it as a violation of our laws."

It was very proper, on the part of Mr. Crampton, to write a letter discountenancing these proceedings, and to give notice to the British consuls that they were in violation of our law; but, sir, we shall presently see how sincere Mr. Crampton was, when he showed this letter to the American Secretary of State. It has been stated broadly out of doors, and more than intimated in-doors, that our Secretary of State was, in some manner, to blame, because he did not, at an earlier day, present the double point, as against the British government, of having not only violated our municipal laws, but also of having violated our territorial rights of sovereignty under the laws of nations. That Mr. Marcy did comprehend the whole case in all its bearings from the beginning is manifest by the same despatch from which I have already read; for in it he said to Mr. Buchanan:—

"Besides being a disregard of our *sovereign rights as an independent nation*, the procedure was a clear and manifest infringement of our laws, enacted for the express purpose of maintaining our neutral relations with other powers."

Here, then, in the outset, the American Secretary of State, in the very first letter which he wrote on this subject, called attention to both points of the controversy, and put the violation of our territorial rights in the foreground, mentioning, in advance of the other complaint, that it was also a violation of our municipal laws. There is, therefore, no just ground to charge that the American Secretary did not raise the two points. If the British government was not promptly advised of the double ground of complaint, it was no fault of Secretary Marcy. He certainly saw and raised both points in the onset, and put it in the foreground as the most important of the two, the violation of our "sovereign rights as an independent nation." ¶

On the 6th July, 1855, Mr. Buchanan wrote to Lord Clarendon, notifying him fully of what had been done, and informing him of the complicity of the British functionaries in this country with this business, and calling his attention to the second section of the neutrality act of 1818. The language of that act is in these words:—

"That if any person shall, within the territory or jurisdiction of the United States, enlist or enter himself, or hire or retain another person to enlist or enter himself, or to go beyond the limits or jurisdiction of the United States with intent to be enlisted or

*entered in the service of any foreign prince, state, colony, district, or people, as a soldier, as a marine or seaman, on board of any vessel of war, letter of marque, or privateer, every person so offending shall be deemed guilty of a high misdemeanor, and shall be fined not exceeding one thousand dollars, and be imprisoned not exceeding three years," &c.*

Whatever might have been said before this, it would be shameless mendacity to contend that the British government were not fully advised, from the date of this despatch, as to what was the municipal law of this country. If after this despatch any person was induced to go beyond the limits of the United States "with the intent of being enlisted" in her Majesty's service, it must have been known to be in violation of our law; and those who did it, or made the attempt to do it, must have been aware that they violated, or attempted to violate, these laws. Notwithstanding this, on the 16th of July last, Lord Clarendon wrote to Mr. Buchanan expressing his regret, not that the laws of the United States had been violated, but "if the laws of the United States have been in any way violated," he says that "such infringement is against the positive instructions of her Majesty's government." Hear him:—

"The undersigned, however, thinks it right to state to Mr. Buchanan that some months ago her Majesty's government were informed, from various sources, that in the British North American possessions, *as well as in the United States*, there were many subjects of the Queen who, from sentiments of loyalty, and many foreigners who, from political feeling, were anxious to enter her Majesty's service, and to take part in the war."

They were advised, he says, that many persons in the United States desired to take part in the war; and if they devised a way by which such persons should leave the United States with the intention of enlisting in her Majesty's service, they knew that such device would be a violation of the spirit of our law; and yet what did they do? His lordship says:—

"Her Majesty's government, desirous of availing themselves of the offers of these volunteers, adopted the measures necessary for making generally known that her Majesty's government were ready to do so, *and for receiving such persons as should present themselves at an appointed place in one of the British possessions*. The right of her Majesty's government to act in this way was incontestable; but at the same time they issued stringent injunctions to guard against any violation of the United States law of neutrality."

This is, perhaps, the most extraordinary paper that ever emanated from a statesman of acknowledged ability. Recollect that Mr. Buchanan had, on the 6th of July, sent to Lord Clarendon a copy of our law, making it an offence for "any person" to retain another "to go beyond the United States with the intent to be enlisted in the service of any foreign State;" and yet on the 16th of the same month, his lordship unblushingly says that her Majesty's government was informed that "many persons in the United States," subjects of the Queen and others, were "desirous of taking part in the war;" and that her Majesty's government, being anxious to get their services, notified them of the fact, and "appointed a place for them to present themselves in one of the British possessions;" and he says, "the right of her Majesty's government to act in this way was incontestable." Mr. President, can his lordship be serious? Does he really mean to take the ground that the British Queen has an "incontestable" right to violate our laws at her pleasure? If he does not mean that, his declaration is without meaning; for, with a full knowledge of what the law is, he states a case palpably in the very teeth of the law, and then asserts that her Majesty's



government had an incontestable right to act as they did. Her Majesty's government appointed a place for them to assemble. Were they to go for nothing? Were they to go for the mere love of fighting; or were they to go because they had been hired or retained? I will not insult the common sense of mankind by arguing a proposition so plain as that these men were not expected to enlist without pay. If they went for pay, the law was violated, and Lord Clarendon knew it.

But, sir, his lordship said that he issued "stringent instructions not to violate the law;" that is to say, his lordship told his servants to go upon his neighbor's premises, cut down and carry away his timber without leave and against his instructions, but to be very cautious not to commit trespass. Why, sir, in the very act of obeying the orders he must necessarily commit trespass. In the very act of obeying the orders of the British government, its agents were necessarily compelled to violate our laws. How could they establish, as they confessedly have done, a rendezvous in Nova Scotia, or in Canada, for the express purpose of drawing recruits from this country, for the purpose of hiring men to go there, with the intention of enlisting in her Majesty's service, without violating the law—without violating that clause of our law which says, that if any man shall be hired or retained to leave the United States with the intention of being enlisted, the person so hiring, &c., shall be guilty of a misdemeanor? His lordship admits that many acts were done which were undoubted violations of the law, but he denies the authority of the persons who did these acts. I will use his own language:—

"Her Majesty's Government do not deny that the acts and advertisements of these self-constituted and unauthorized agents were, in many instances, undoubted violations of the law of the United States; but such persons had no authority whatever for their proceedings from any British agents, by all of whom they were promptly and unequivocally disavowed."

We shall see, as we proceed, how much of this statement is according to the record. On Hertz's trial, it was shown that many of her Majesty's officers were not only cognisant of these acts and advertisements, but actually aided and abetted in them. Lord Clarendon calls them "unauthorized and self-constituted agents" in all they did. The truth will be clearly seen when I come to examine the evidence in Hertz's case, as I propose to do.

His lordship, in the despatch from which I last read, next proceeds to vindicate Sir Gaspard Le Marchant, the Lieutenant-Governor of Nova Scotia, against all suspicion of intending to violate the laws of the United States, though he admits that he did issue a proclamation, which was subsequently posted in Philadelphia, and perhaps in other cities of the Union, with the view of raising recruits in this country. The attempt at this point to fasten the responsibility on unauthorized agents, and to work Sir Gaspard out of the difficulty, is, I think, to say the least of it, unmanly. But his effort further along to shield himself and his Nova Scotia *protege* behind Judge Kane, the distinguished jurist who presided on the trial of Hertz, is almost childish. He says:—

"With respect to the proclamation by the Lieutenant-Governor of Nova Scotia, enclosed in Mr. Buchanan's note, the undersigned can assure Mr. Buchanan, with reference both to the character of Sir Gaspard Le Marchant and to the instructions he received, as well as to his correspondence on these instructions, that that officer is quite incapable of intentionally acting against the law of the United States; and in proof that he did not in fact do so, the undersigned begs leave to refer Mr.

Buchanan to the legal decision given on the particular point adverted to by Mr. Buchanan, by Judge Kane, on the 22d of May last, in the United States Circuit Court at Philadelphia. The judge says, *'I do not think that the payment of the passage from this country of a man who desires to enlist in a foreign port comes within the act.'* [The neutrality act of 1818.] *'In the terms of the printed proclamation there is nothing conflicting with the laws of the United States. A person may go abroad, provided the enlistment be in a foreign place, not having accepted and exercised a commission. There is some evidence in Hertz's case that he did hire and retain, and, therefore, his case would have to be submitted to a jury. In Perkins's case there was testimony upon which a jury might convict. In Bucknell's case it appears that there was a conversation at which he was present, but there was no enlistment, or hiring, or retaining. The conversation related as to the practicability of persons going to Nova Scotia to enlist. If the rule I have laid down be correct, then the evidence does not connect him with the misdemeanor.'* *'Mr. Bucknell is, therefore, discharged, and Messrs. Perkins and Hertz are remanded to take their trial.'*"

Hertz was held to trial, and was afterwards tried and convicted, and yet Lord Clarendon quotes Judge Kane as authority that Sir Gaspard Le Marchant did not in fact violate the law by procuring the enlistment of men in the United States through Hertz's agency; for it will be borne in mind that he was but the agent of the Lieutenant-Governor of Nova Scotia in all that he did. Lord Clarendon continues:—

*"As regards the proceedings of her Majesty's Government, the undersigned has the honor to inform Mr. Buchanan that Mr. Crampton was directed to issue strict orders to British consuls in the United States to be careful not to violate the law, and Mr. Crampton was enjoined, above all, to have no concealment from the Government of the United States."*

*"Not to violate the law!"* And it is maintained that the law has not been violated! And this in the face and teeth of the fact that one of the parties (Hertz) had been arrested, indicted, and convicted, and would have been punished but for a pardon. He was tried and convicted before the very judge whose authority is quoted to show that there had been no violation of the law! Now let us see what were the actings and doings in this case.

I hold in my hand a copy of the proceedings in Hertz's trial; and, at the risk of being a little tedious, I must read some extracts from the testimony of the principal witness, Strobel, premising that he is shown throughout the whole proceeding to have been the companion and the guest, not only of Sir Gaspard Le Marchant, but of Sir Edmund Head, the Governor-General of Canada, and of Mr. Crampton himself. The intimacy, the daily association between the parties, exclude the idea that he was not a gentleman. The man who but a little while before was taken into the families of these distinguished British functionaries, feasted by them, wined by them, sheltered by them, and taken to their bosoms as a companion, is not to be shuffled off and "whistled down the wind" as an unworthy personage when he comes to tell the truth under the solemn obligations of an oath. All attempts, therefore, to discredit this witness must necessarily fall to the ground, at least until these gentlemen can show something that has transpired, after they were dining, wining, sheltering, and associating with Strobel. Previous to the time when he gave this testimony, he was a gentleman; what has transpired since to invalidate his testimony? Nothing. No attempt has been made to prove him unworthy of credit. What did he say? After relating a great many other things, he said:—

*"A few days afterwards, I suppose, on the 28th of February, I received a letter from Mr. Crampton."*

"Question. Is this the letter ?

"Answer. Yes, sir.

"Q. And this the envelope in which it was enclosed ?

"A. Yes, sir.

"The letter was here read in evidence, as follows :—

" "WASHINGTON, February 14, 1855.

" "SIR : With reference to our late conversation, I am now able to give you more precise information in regard to the subject to which it related.

" "I remain, sir, your obedient servant,

" "JOHN F. CRAMPTON.

" "MR. MAX STROBEL." "

"After receiving this letter, I went to see Mr. Crampton next morning; Mr. Crampton told me that he had received letters from home, and that he was willing now to raise men here in the jurisdiction of the United States for a British foreign legion, which should be established either in Nova Scotia or in Canada.

"Q. Did he use the words 'within the jurisdiction of the United States ?'

"A. Yes, within the jurisdiction of the United States.

"Q. He used those precise words, did he ?

"A. Yes, sir; but he was not sure at the time whether the main depot should be at Halifax or in Canada, and he was obliged to make arrangements with the Governor-General of Canada. At the very same time he gave me a letter of introduction to the British consul in New York, Mr. Barclay, in which he states, that I am already acquainted with the matter, and that Mr. Barclay might receive me and talk with me about this subject, and that I should make preparations in New York for getting men. He told me at the very same time he would send a messenger to the Governor-General of Canada. I went to New York, and delivered my letter to Mr. Barclay.

"Q. What was this messenger sent for ?

"A. To arrange matters about a depot, or place where we could send these men whom we got here in the States."

At another point of his testimony, I find this :—

"Q. In consequence of what Dr. Biell told you, state what you did ?

"A. I went to Hertz, and had a conversation with Hertz about this matter.

"Q. Where was he ?

"A. He was in his office, No. 68 South Third street, opposite the Exchange. I saw, then, Mr. Hertz, and from that time (nine o'clock, A. M.) I was with Mr. Hertz till three, P. M., where, in pursuance of the advertisements, men came and wrote their names down on a book, and agreed to enter the foreign legion at Halifax.

"Q. Have you ever seen a bill like this ?

"A. I have seen this hand-bill.

"Q. Where ?

"A. In Mr. Hertz's office.

"The bill was here read in evidence. It reads as follows."

The bill here alluded to is the proclamation of Sir Gaspard.

Mark the language of this proclamation, and see if it does not bear on its face internal evidence that it was meant for circulation in the United States ?

#### MEN WANTED FOR HER MAJESTY'S SERVICE.

(Arms of Great Britain, with mottoes.)

PROVINCIAL SECRETARY'S OFFICE,  
HALIFAX, NOVA SCOTIA, March 15, 1855.

The Lieutenant-Governor of Nova Scotia having been employed to embody a foreign legion, and to raise British regiments for service in the provinces or abroad, notice is hereby given, that all able-bodied men, between the ages of nineteen and forty, on applying at the depot at Halifax, will receive a bounty of £6 sterling, equal to \$30, and on being enrolled will receive \$8 per month, with the clothing, quarters, and other advantages to which British soldiers are entitled.

Preference will be given to men who have already seen service.

The period of enlistment will be from three to five years, at the option of the British Government.

Officers who have served will be eligible for commissions. Gentlemen who wish to come into the province will please lodge their names, rank, date of service, &c., at the office.

Persons who serve in the foreign legion will, on the expiration of their term, be entitled to a free passage to America, or to the country of their birth.

Pensions or gratuities for distinguished services in the field will be given.

Nova Scotian and other *shipmasters who may bring into this province* poor men willing to serve her Majesty, will be entitled to receive the *cost of a passage for each man shipped from Philadelphia, New York, or Boston.*

By command.

LEWIS M. WILKINS, *Provincial Secretary.*

That is Sir Gaspard Le Marchant's proclamation, sent out from Nova Scotia, signed by the secretary of that province, posted up in the streets of Philadelphia, notifying those who should carry men from this country that their passage-money would be paid by the British government. Now, sir, can there be any doubt that it was intended by this proclamation to draw men from the United States? Then by what authority does Lord Clarendon pretend to assume that Sir Gaspard did not mean to violate the laws of the United States, if he issued a proclamation—and here is the paper—and had it sent to Philadelphia and other cities, and posted up, saying that the British government would pay the expense of men from New York, Philadelphia, and Boston, to Halifax? Was it not done with the intention and expectation of drawing men from these points? If he intended to get men in New York, Boston, and Philadelphia, did he not mean to violate that provision of our law which forbids men being hired or retained to leave this country with the intention of enlisting in the service of a foreign state? It seems to me that the proof on this point is conclusive; but still the agents were told not to violate the law! That assertion presents itself through the whole of the correspondence. Every time the British government is brought to a sharp corner in this correspondence, you may feel sure that, as soon as you turn round, you will see it written, "Do not violate the law!" but at the time the government were telling their agents not to violate the law, they were giving them instructions which they knew could not be obeyed without violating the law.

MR. HALE. Will the senator allow me to interrupt him at this point?

MR. BROWN. Certainly.

MR. HALE. I think the senator is arguing this case under a misapprehension, and I wish to put him right. I desire to ask him whether he understands it to be against the law to leave the United States with the intention of enlisting in any foreign service?

MR. BROWN. I do. The law says, in express terms, just what I have stated.

MR. HALE. I think the senator will find himself exceedingly mistaken in that respect.

MR. BROWN. I have read the law; and if I am mistaken about it, I am willing that anybody shall detect the error.

MR. HALE. I think the senator will find the law to be this: That it is criminal for any man to procure a person to go abroad with the intention of enlisting; but if a citizen of this country wishes to go to Halifax, or anywhere else, and enlist in a foreign service, it is no crime for him to do it. He may do it, and there is no crime in declaring his intention to do it. I think I am not mistaken in this. It is unlawful for somebody else to procure him to do it; but anybody in the United States has a right to go if he chooses, and to go armed if he wishes to do so.

Mr. BROWN. The senator and I do not understand the law precisely alike. I have read it *verbatim*, and the Senate will judge whether my comments are sustained by the text.

Now, sir, let us proceed further. At another point in Strobel's testimony I find this:—

"Q. (Paper shown). Will you look at that paper, and state what it is?

"A. It is the instructions I received at Quebec, in Sir Edmund Head's house, out of Mr. Crampton's own hands. *The original was written in Mr. Crampton's own handwriting*, and was written, at least part of it, in my presence, in his room. This is a copy made from the original; I made it for the purpose of preserving a copy. The original I gave back in a report I made to Sir Gaspard Le Marchant, in Halifax. That report stated what I had done to clear me of two charges made against me up there.

"Q. That, then, is a copy made from the original instructions of Crampton, as to your duty in the United States?

"A. That is a copy of the original instructions I received at this time from Mr. Crampton.

"The paper was being read as part of the evidence, when, on motion, a recess was taken for ten minutes. On the court reassembling, the reading of the paper was concluded. It is as follows:—

"'Memorandum for the guidance of those who are to make known to persons in the United States the terms and conditions upon which recruits will be received into the British army:—

"'1. *The parties who may go to Buffalo, Detroit, or Cleveland, for this purpose, must clearly understand that they must carefully refrain from anything which would constitute a violation of the law of the United States.'*"

Very careful, Mr. Crampton! For what purpose did he send them to Buffalo, and Detroit, and Cleveland? If they were sent there for any purpose, it was to get men to fill up the British foreign legion, and how could they do it without violating the law? Let us go further, and see how cautious Mr. Crampton was:—

"'2. They must, therefore, avoid any act which might bear the appearance of recruiting within the jurisdiction of the United States for a foreign service, or of hiring or retaining anybody to leave that jurisdiction with the intent to enlist in the service of a foreign power. [Both these acts are illegal by the act of Congress of 1818, sec. 2.]

"'4. There must be no collection, embodiment of men, or organization whatever, attempted within that jurisdiction.

"'5. No promises or contracts, written or verbal, on the subject of enlistment, must be entered into with any person within that jurisdiction.

"'6. The information to be given will be simply, that to those desiring to enlist in the British army, facilities will be afforded for so doing on their crossing the line into British territory, and the terms offered by the British Government may be stated *as a matter of information only*, and not as implying any promise or engagement on the part of those supplying such information, so long, at least, as they remain within American jurisdiction."

That is to say, they were to be told how much they would get if they would go; but there was no absolute engagement, because that might possibly break the law! See again how cautious he is. What a cunning old fox is Mr. Crampton! Let us examine his instructions further:—

"'7. It is essential to success that no assemblages of persons should take place at *beer-houses*, or other similar places of entertainment, for the purpose of devising measures for *enlisting*; and the parties should scrupulously avoid resorting to this or similar means of disseminating the desired information, *inasmuch as the attention of the American authorities would not fail to be called to such proceedings*, which would undoubtedly be regarded by them as an attempt to carry on recruiting for a foreign power within the limits of the United States; and it certainly must be borne in mind that the institution of legal proceedings against any of the parties in question, even

if they were to elude the penalty, *would be fatal to the success of the enlistment itself.*"

Ah! had he not been told to have no concealment from the United States; and does not Lord Clarendon make it a matter of boast that Mr. Crampton had been told above all things to have no concealment from the United States? Yet here is a paper, drawn by his own hand, in which he tells his men not to do particular things, because they could not fail to attract the attention of the American authorities. If these things were lawful, why need he care if the American authorities did see them? If he was doing no wrong—if he was violating no law—if he was conscious of the perfect propriety of his conduct, why this violation of his instructions to have no concealment from the United States?

The amount of the instructions is, that they must not go into beer-houses, they must not talk about the matter at the street corners, they must not assemble in large squads, for this would attract the attention of the American authorities, and "be fatal to the success of the enlistment itself." Sir, do not forget that we are told Mr. Crampton was acting under instructions to have no concealment from this government. Another point of these memoranda of Mr. Crampton to the recruiting agents is:—

"8. Should the strict observance of these points be neglected, and the parties thereby involve themselves in difficulty, they are hereby strictly apprised that they *must expect no sort of aid or assistance from the British Government*; this Government would be compelled by the clearest dictates of international duty to disavow their proceedings, and would moreover be absolved from all engagements contingent upon the success of the parties in obtaining, by legal means, soldiers for her Britannic Majesty's army."

I need not comment on this strange paragraph; it plainly says, Go and violate the laws of the United States: be cunning, look out for yourselves; if you get into difficulties, the proud and haughty government whose dirty work you are doing will disown you.

I proceed with the testimony. A paper is shown the witness, and he is asked:—

"Q. In whose handwriting is that paper?

"A. At that very time I also received this cipher, to telegraph with to Mr. Crampton and to Halifax, about this recruiting business; I cannot swear as to whose handwriting it is in, but I believe it is Mr. Crampton's; I did not see him write it, but he handed it to me.

"The paper was here given in evidence; the following is a copy:—

Letter.	Cipher.	Letter.	Cipher.
a	y	n	q
b	v	o	n
c	j	p	c
d	l	q	h
e	x	r	o
f	e	s	p
g	z	t	k
h	u	u	g
i	b	v	d
j	w	w	m
k	t	x	r
l	a	y	i
m	s	z	f

"Q. You were to telegraph him by this cipher, instead of the usual way?

"A. Yes, sir.

"Q. What was the object in giving you this cipher ?

"A. Such ciphers were given to several officers—to Mr. Smolenski, Mr. Cartensen ; and men actually engaged in the recruiting business received those ciphers.

"Q. Was it for the purpose of avoiding detection ?

"A. It was for the purpose of avoiding detection, and avoiding any difficulties with the authorities here. It was to enable me to telegraph to Mr. Crampton from every place I might visit, without the people in the telegraph offices understanding it.

"Q. Were all the officers sent on this recruiting to telegraph to Mr. Crampton as to their proceedings, and was that cipher to be used ?

"A. Yes, sir."

Here follows a long list of dinner invitations from Sir Gaspard and Lady Le Marchant, and other British officers of high rank ; important only as showing that Strobel was on terms of social intimacy with these gentlemen, and is, therefore, unimpeached, and, so far as we know, unimpeachable.

For what purpose did Mr. Crampton want a cipher ? Why should he resort to these cabalistic characters, which only he and the initiated could understand ? Was that to carry out his instructions, to have no concealment from the government of the United States ? Was he dealing openly and fairly with the government, when he supplied his agents with a cipher which none but he and they understood ? For what purpose was the cipher given ? The witness tells us, "it was for the purpose of avoiding detection, and avoiding any difficulties with the authorities here." A cipher was resorted to for the purpose of telegraphic communications, the object being to avoid detection ; and yet he is violating no law—he is keeping nothing concealed from the government of the United States ! And yet Lord Clarendon defends and justifies Mr. Crampton's conduct, and stoutly maintains, as we shall presently see, that he has done no wrong, violated no law, and disobeyed no instructions.

Now, before I pass from this branch of the subject, I desire to call attention to the charge of Judge Kane, delivered on the trial of Hertz. It is important in many points of view, but it is especially important, as Judge Kane is brought into this case by Lord Clarendon himself, as the very judge who had correctly expounded the law. I read this opinion because it is from the man on whom his lordship relies for correct opinions. Judge Kane says :—

"Our people and our government have been accused of forgetting the obligations of neutrality, and pushing ourselves forward into the conflicts of foreign nations, instead of minding our own business as neutrals, and leaving belligerents to fight out their own quarrels. For one, I confess that I felt surprised, as this case advanced, to learn, that during the very time that these accusations were fulminated against the American people by the press of England, there was, *on the part of eminent British functionaries here, a series of arrangements in progress, carefully digested, and combining all sorts of people, under almost all sorts of influences, to evade the laws of the United States by which our country sought to enforce its neutrality—arrangements matured, upon a careful inspection of the different sections of our statutes, ingeniously to violate their spirit and principle without incurring their penalty, and thus enlist and send away soldiers from our neutral shores to fight the battles of those who were incontinently and not over courteously admonishing us to fulfil the duties of neutrality.*"

If it were important, I could show, by the speeches delivered in the British Parliament itself, that we are not alone in our construction of our own law, and that we are not alone in the charge which we make

against Mr. Crampton, of having violated the law, and having done it knowingly. These things were charged on the 13th of last month in the British House of Commons, by Mr. Roebuck, by Mr. Gibson, and by others. Mr. Roebuck, on that occasion, said:—

“We have been led to suppose that we have right on our side, and that our cousins on the other side of the water, taking advantage of our position, were, nevertheless, endeavoring to force us to make a sort of supplication to them for peace. Now, what is the state of the case? It is this: After the Parliament of Great Britain had passed an act for the enlistment of foreigners, the Government determined, under the provisions of that act, to enlist people in America. Being unable to intercept the emigration flowing from Germany to America, they went to America, and they gave instructions to our authorities there to form a foreign legion, to be composed of persons enlisted in America.

“One of the persons employed on that occasion was our Minister at Washington, (Mr. Crampton;) another was the Governor of Nova Scotia; and a third was the Governor-General of Canada. The noble lord said that, as soon as Government discovered that umbrage had been given to the United States by the course they had taken, he gave instructions to our ministers and agents not to trench in any way upon the municipal laws of America, and at the same time sent a full apology to the American Government. He then appealed to the House, and asked, could he do anything more?

“If the noble lord had only done what he stated, I should have answered his appeal by saying that nothing more could be done. But Government did more, and what they did I will now state. Mr. Crampton went from Washington to Nova Scotia, and there entered into a sort of combination with the Governor, and laid a plan by which the laws of the United States might be contravened, in order to obtain surreptitiously that which could not be obtained by other means. I will prove directly all that I assert out of Mr. Crampton’s own mouth, or rather out of his own pen, but I ought first to state the law of America upon the subject of enlistment; and the House will then see that it is in accordance with the opinion and feeling of the country.

“In the first place, it is illegal to enlist anybody in the United States for the service of a foreign state. The Government are not, however, charged with that offence, but with something more. Any person going to the United States, and inducing people to leave those states for the purpose of being enlisted abroad, also acts in contravention of the law; and this is part of the law which Mr. Crampton is accused of having broken through. He went to Nova Scotia; he there engaged persons going to the states to enlist people—that is, to induce them to go to Nova Scotia to be enlisted. Now, the very act of inducing people to leave the United States for the purpose of being enlisted is a violation of the law, being a contravention of that neutrality to which the Americans wish to adhere.

“Mr. Crampton thought he could do this without being discovered by the authorities of the United States. They did, however, discover what was taking place, and, in consequence of that discovery, Mr. Crampton issued a proclamation from Nova Scotia, suggesting a means of evading the law of the United States, and giving the parties whom he employed a cipher by which they might communicate with him. How do I prove this statement? Why, I hold in my hand a document curious in many ways. It is a report of a trial that took place in Pennsylvania, in which one Henry Hertz was the defendant, being charged by the United States Government with certain breaches of the law set forth in the indictment. One peculiarity of the indictment is, that it is intelligible.” [A laugh.]

Such is the authority of the leading commoner (Mr. Roebuck). Other members spoke to the same effect.

But let us return to the despatch of the 16th of July. In this despatch the Earl of Clarendon assures Mr. Buchanan of the cordial goodwill of the British government towards the United States. I wish to be just, I wish to deal fairly with these parties, and therefore state that this despatch does express a cordial goodwill on the part of the British government towards the United States. If the sincerity of these assurances had been attested by the conduct of the British functionaries in



the United States, there would have been no further difficulty after the date of this despatch; but that they were not so attested, and that they were not in fact sincere, is abundantly proven at every step as we advance in the investigation of the case.

On the 18th of July, Mr. Buchanan acknowledged the receipt of Lord Clarendon's note of the 16th, and assured him of "the satisfaction he would have in transmitting a copy of it to the Secretary of State by the next steamer." This note is that which has so conspicuously figured ever since as an accepted apology and satisfaction for all that has been done. It is not an apology, and was not so accepted. It fell short of this point. If, however, it had been written in good faith, and its sentiments faithfully carried out in the subsequent negotiations, it would have led to a satisfactory conclusion. It may well be doubted whether the assurances contained in this note were given in good faith. It is perfectly certain that they were not faithfully carried out.

[In consequence of temporary indisposition, Mr. BROWN was unable to proceed further on Tuesday; to-day (March 13) he concluded his speech as follows:—]

On the 5th of September, when the evidence had so accumulated as to force conviction on the reluctant mind of Mr. Marcy, that the minister (Mr. Crampton), and many others high in British confidence, had taken active and efficient parts in the business of recruiting for her Majesty's army, he departed from the beaten track of diplomacy, and addressed himself directly to the British envoy. In that letter he says:—

"The information which has been laid before the President has convinced him that the proceedings resorted to for the purpose of drawing recruits *from this country* for the British army, have been instigated and carried on by the active agency of British officers, and that their participation therein has involved them in the *double offence of infringing our laws, and violating our sovereign territorial rights.*"

This was an open and direct accusation based on testimony. It accuses British officers of the double offence of infringing our laws, and violating our sovereign territorial rights.

Nor does the Secretary leave it in doubt as to who are the offending parties. He says to Mr. Crampton:—

"The President perceives with much regret that the disclosures implicate you in these proceedings." \* \* \* "The information in his possession does not allow him to doubt that yourself, as well as the Lieutenant-Governor of Nova Scotia, and several civil and military officers of the British government of rank in the provinces, were instrumental in setting on foot this scheme of enlistment; have offered inducements to agents to embark in it, and approved of the arrangements for carrying it out, which embraced various recruiting establishments in different cities of the United States."

Here is a direct and specific charge made against Mr. Crampton, that he was implicated in these transactions, and that, in the judgment of our government, they were flagrant outrages on our law, and direct insults offered to our sovereignty. How does Mr. Crampton meet this grave and direct charge? Does he come forward with a bold and manly denial? Does he exhibit that calm resentment which conscious innocence always shows? No, sir, no; but two days after, on the 7th of September, he addresses a brief note to Mr. Marcy—not to deny the charge, not to resent an unjust imputation, not to palliate an

acknowledged wrong; oh, no! not for any of these purposes; but to inform Mr. Marcy that—

“I have thought it expedient to defer replying at length to your present communication, until I shall have been more fully put into possession of the views of her Majesty’s government, in regard to all the matters to which it relates.”

“The views of her Majesty’s government!” If he had, to use Lord Clarendon’s own words, “stringent instructions not to violate our laws, or territorial rights,” and was conscious of having obeyed those instructions—if, as his lordship has undertaken to prove for him, he had violated no law—why did he not say so? What need was there, in that case, for the views of her Majesty’s government.

I suspect that Mr. Crampton’s despatch to Lord Clarendon, calling for “the views of her Majesty’s government,” runs after something after this fashion: “I have been trying to obey your lordship’s order; I have been trying to evade the laws of the United States—violating them while I seemed to respect them; I have got myself in a scrape; the Yankees have caught me; old Marcy has me fairly treed; and I will thank your lordship to tell me what I am to do.”

Well, sir, the next thing we have in arrogance and insolence, after the true John Bull style:—

“The undersigned, her Britannic Majesty’s Principal Secretary of State for Foreign Affairs, has the honor to address a note to Mr. Buchanan, Envoy Extraordinary and Minister Plenipotentiary to her Majesty’s Court.”

Such is the pompous prelude to a note bearing date September 27, 1855.

In this note Lord Clarendon adverts to Mr. Marcy’s charge that our sovereign territorial rights had been violated by British officers, and coolly says:—

“Her Majesty’s government have no reason to believe that such has been the conduct of any persons in the employment of her Majesty.”

And again:—

“Her Majesty’s government feel confident that even the extraordinary measures which have been adopted in various parts of the Union to obtain evidence against her Majesty’s servants, or *their agents*, by practices sometimes resorted to under *despotic institutions*, but which are disdained by all free and enlightened governments, will fail to establish any *well founded charge against her Majesty’s servants*.”

The plain English of this is, that our President and Secretary of State do not understand who they are talking about. Her Majesty’s servants are above suspicion. Though a republican court has resorted to despotic means for the purpose of fastening charges against them, they have passed the fiery ordeal unscathed—the charge rebounds and knocks the accuser over.

I confess, Mr. President, that this language stirs my American blood. When a British Secretary so far forgets the proprieties of his position and the respect due to our country as to charge that our government has been “resorting to extraordinary and despotic measures, such as are discarded in free and enlightened countries, for the purpose of obtaining evidence against her Majesty’s servants,” I am not willing to stop with Mr. Buchanan, and say “the language is offensive;” I go further, and say it is insolent, and ought to be resented.

Lord Clarendon, instead of excusing the conduct of Mr. Crampton and his confederates, or tendering an apology for their violation of the

"stringent instructions" given them by her Majesty's government, or in some other way offering reparation for the wrong done to our laws and sovereignty, proceeds to arraign the United States on charges of duplicity and bad faith. He says:—

"The United States profess neutrality in the present war between the western powers and Russia; but have no acts been done within the United States, by citizens thereof, which accord little with the spirit of neutrality? Have not arms and ammunition, and warlike stores of various kinds been sent in large quantities from the United States for the service of Russia? Have not plots been openly avowed, and conspiracies entered into without disguise or hindrance in various parts of the Union, to take advantage of the war in which Great Britain?" &c.

These and other insinuations are freely indulged in. "Have not arms and ammunition and warlike stores of various kinds," asks his lordship, "been sent in large quantities from the United States for the service of Russia?" Yes, sir, doubtless this is true. Our people sell wherever they can find a customer; and I daresay, if England had needed "arms and ammunition and warlike stores" our merchants would have supplied her as readily as they supplied Russia.

How many thousand barrels of pork, flour, and beans have England and France bought in the United States for the use of their armies?—and yet Russia has not complained. These articles are not arms or ammunition, but they are stores just as essential to the success of an army as powder and ball. How many of our ships have the allies chartered to transport their armies and their warlike stores?—and yet Russia has never charged us with bad faith or double-dealing. This is a complaint based on nothing, and is dictated by no sense of national wrong. It results from a fretful spirit, lashed to anger because excuses cannot be found to justify that which is not justifiable. That, I think, is the whole story on this point of the controversy. Men are very apt to lose their temper when in discussion they are driven to the wall; and when Lord Clarendon could no longer answer the statesman-like notes of Mr. Buchanan and Mr. Marcy, he lost his temper and became childish—in fact, almost womanish.

There are other parts of this letter that are highly offensive, but I pass them by without notice.

On the 18th of October, 1855, Secretary Marcy replied to this extraordinary note of Lord Clarendon through Mr. Buchanan. The letter is a frank and manly review of his lordship's carping and—I had almost said silly—complaints against our government. After effectually disposing of every point, and dissipating every argument produced by the British Secretary, Mr. Marcy concludes by saying that:

"Supported as this government is in the charge made against British officers and agents, of having infringed our laws and violated our sovereign territorial rights, *and being able to sustain that charge by competent proof*, the President would fail in due respect for the national character of the United States, and in his duty to maintain it, if he did not decline to accept, as a satisfaction for the wrongs complained of, Lord Clarendon's assurance that these officials were enjoined a strict observance of our laws, *and that he does not believe that any of them have disregarded the injunction.*

"*This government believes, and has abundant proof to warrant its belief*, that her Britannic Majesty's officers and agents have transgressed our laws and disregarded our rights, and that its solemn duty requires that it should vindicate both by insisting upon a proper satisfaction. The President indulges the hope that this demand for redress will be deemed reasonable, and will be acceded to by her Britannic Majesty's government."

Our government—very properly, I think—declined to receive an apology for an offence committed by a servant, when the master takes it upon himself to say, “Notwithstanding your declaration that you have the proof, I do not believe a word of it.”

“This government has indicated the satisfaction which it believes it has a right to claim from the British government in my despatch to you of the 15th of July last.”

In the despatch of the 15th of July, Mr. Marcy informs Mr. Buchanan that notwithstanding Lord Clarendon’s assurances, given in his note of the 12th of April, 1855, “the scheme” of enlistment is not abandoned, “but is continued down to this time, and is prosecuted with more vigor and effect than at any previous period.” He adds:—

“Since that time many months have elapsed, and the British officers, with a full knowledge of the illegality of the procedure and of its offensive character to the government and people of the United States, as an open contempt of their sovereign rights, persist in carrying on this obnoxious scheme without any open disapproval by the Home Government, or any attempt to arrest it.”

These are important facts in the consideration of this question. At the date of this despatch, it will be perceived, Mr. Marcy was still complaining that notwithstanding our remonstrances, the offensive conduct of the British agents was yet carried on in open contempt of our laws and of our sovereign territorial rights. He directly charges that no effort had been made by the British government to arrest it. Was I not right when I expressed some doubts as to whether Lord Clarendon’s note of July 16 was dictated in a spirit of true friendship? If it was, how does it happen that months afterwards this offensive conduct had not been arrested?

The satisfaction which was claimed in Mr. Marcy’s note of the 15th of July, and which is referred to in his other note of October 18th, may be gathered from the note itself. It says:—

“It was reasonably expected that her Britannic Majesty’s government would have considered it due to the friendly relations between the two countries, not merely to *reprove its officers* engaged in this scheme of raising recruits within our jurisdiction, but promptly to retrace the steps which had been taken, and at once to arrest the illegal proceedings; but this government is not aware that any such course has been taken; on the contrary, it has reason to believe that the machinery first put in operation is still at work, and is still managed by British functionaries.”

\* \* \* \* \*

“As recruiting for the British army, in the mode alluded to, is still prosecuted in the United States by officers and agents employed for that purpose, the President instructs you to say to her Majesty’s government, that he expects it will take prompt and effective measures to arrest their proceedings, and to discharge from service those persons now in it who were enlisted within the United States, or who left the United States under contracts made here to enter and serve as soldiers in the British army.”

Will any one pretend that this was more than meager justice for the wrongs we had received? Complaint after complaint had been made, assurance after assurance had been given that the government *had full information* as to the unlawful acts of British officers and agents; and yet all that is asked is the smallest measure of justice, and even this is superciliously, if not insultingly denied.

The note of the 15th of July was not acted upon by Mr. Buchanan, for the reason as he explains in a note to Mr. Marcy, under date of October 30th. He says:—

"I had, previously to its arrival, transmitted to you a copy of Lord Clarendon's note, already referred to, of the 16th of July, on the subject of the enlistment and employment of soldiers for the British army within our limits, and had informed his lordship, in acknowledging the receipt of this note, that I should have much satisfaction in transmitting a copy of it to the Secretary of State. Of course it would have been improper for me to take any new step in this matter until I should learn whether this note would prove satisfactory to yourself."

Now let us see what impression this note produced on the mind of the American Minister; and whether it is different from that which would be produced on the mind of any one who read it until he examined the residue of the correspondence. Mr. Buchanan says:—

"The general tenor of this note—its disavowals and its regret—were certainly conciliatory, and the concluding paragraph, declaring that all proceedings for enlistment in North America had been put an end to by her Majesty's government, for the avowed reason that the advantages which her Majesty's service might derive from such enlistments would not be sought for by her Majesty's government, if it were supposed to be obtained in disregard of the respect due to the laws of the United States, was highly satisfactory. It was for these reasons that I expressed the satisfaction I would have in communicating it to you."

\* \* \* \* \*

"I can assure you, that I did not entertain the most remote idea that this question had not been satisfactorily adjusted until I learned the complicity of Mr. Crampton in the affair. This was officially communicated to me in your despatch, No. 107, of the 8th, received on the 24th of September."

I think no one can read this despatch without coming to the same conclusion at which I have arrived—that it was designed by the British government for no other purpose than to put our government off its guard. Repeated assurances were given by our government that the laws were being violated, and the British government could have arrested that course of conduct at any moment when it chose to do so. To me it is a matter of very little consequence, whether the wrong was the result of deliberate design, or of a contemptuous disregard of our rights. I believe I would somewhat prefer, that the British government would directly, immediately, and purposely insult ours, rather than shuffle us off as a gentleman does a low fellow who comes to him and calls him to account for some rude expression, and says, "that I do not recollect that I said so, but if I did I am sorry for it." I am not disposed to see my government shuffled aside so lightly as that.

"Thus much," adds Mr. Buchanan at the conclusion of his despatch, "I have deemed necessary to place myself *rectus in curia*."

It is certainly to be regretted that Mr. Buchanan had not at an earlier day, "*learned the complicity of Mr. Crampton in this affair*." The magnitude of the offence against our territorial sovereignty would have been comprehended by him at once, and instead of expressing the "satisfaction he would have in transmitting Lord Clarendon's note to Mr. Marcy," he would have informed his lordship promptly that his note was not satisfactory. No one can fail to see that while a small measure of redress might atone for an infraction of our laws by British subjects or servants in subordinate positions, yet, if these laws are broken, and the sovereignty of the country insulted by a Minister Plenipotentiary, it is quite a different affair. In that case it becomes a matter of the gravest moment, and is in fact the same as if done by the sovereign herself, and requires the same measure of redress.

It will therefore be seen why it was that Mr. Marcy, in the first in-

stance asked but little of the British government, and why Mr. Buchanan may have thought all had been obtained that the case required. Neither of them knew of Mr. Crampton's connection with this business. Mr. Marcy was slow to believe in his complicity, and never ventured to charge it upon him until the 5th of September; and Mr. Buchanan knew nothing of it until the receipt of the despatch of September 8th, which was received by him in London on the 24th of that month.

From this date the whole case assumed a different and graver aspect. Instead of being adjusted, as was hoped by Mr. Buchanan, and, I may add by all our countrymen, it grew into a question of the gravest national importance.

About this time—to wit, on the 21st of September—the trial of Hertz commenced at Philadelphia, and resulted in his conviction on the 28th of that month. On this trial the government presented the evidence on which it mainly relied to prove Mr. Crampton's complicity; and I undertake to say no one can read it without being satisfied that the British Minister was the prime mover, chief instigator, the head and front of the whole offending; and, moreover, that the declaration so imposingly put forth by Lord Clarendon, that “no evidence can be found to establish any well-founded charge against her Majesty's servants,” is shown to have been utterly fallacious.

The petulant manner in which Lord Clarendon met the demand for explanations, redress, and satisfaction for these serious offences has already been noticed in my brief comments on his ill-tempered note of the 27th of September, to Mr. Buchanan; I may have occasion to advert to that note again.

After the delivery of Mr. Marcy's note of the 18th of October, in which he so effectually disposes of his lordship's sophistry, and so pointedly, yet quietly, rebukes his ill-temper, his lordship appears to have seen with a clearer vision, and in fact, to have been aroused to a consciousness of the importance of the issue between the two governments.

It is indeed refreshing to witness the improved temper of his next despatch, bearing date November 16. After sundry conciliatory expressions, and a distinct recognition of the two grounds of complaint against her Majesty's officers and agents—to wit, that they have infringed our laws, and, besides, violated our sovereign territorial rights—he says:—

“Now, with respect to both these charges, I have to observe that the information possessed by her Majesty's government is imperfect, and that none of a definite character has been supplied by the despatches of Mr. Marcy, inasmuch as *no individual British officer or agent* is named, and no particular fact, or time, or place is stated; and it is therefore impossible at the present to know either *who is accused by Mr. Marcy, or what is the charge he makes, or what is the evidence on which he intends to rely.*

“Her Majesty's government *have no means of knowing who are the persons really indicated by the general words ‘officers and agents of her Majesty's government;’* whether such persons as those who [have] been under trial are the only persons meant to be charged, or, if not, who else is to be included, or *what evidence against them is relied upon by the United States government.*”

This language is cautious enough, but its sincerity may well be questioned. “No individual officer or agent is named,” says his lordship, we “have no means of knowing who are the persons really indicated,” or “what evidence against them is relied on,” &c. It would hardly be

believed by one who had not read the preceding correspondence, that, at the very moment of writing this note, Lord Clarendon was in possession of Mr. Marcy's letter to Mr. Crampton, in which he accuses that officer in these words: "The President perceives, with much regret, that the disclosures implicate you in these proceedings." \* \* \* \* "The information in his possession does not allow him to doubt," &c. Will it be believed that he was ignorant of "the evidence relied on" by this government, when it is known that Mr. Buchanan had furnished him a copy of the evidence taken on the trial of Hertz, and which evidence clearly implicated Mr. Crampton, and Consuls Rowcroft, Barclay, and Matthew, together with other officers or agents of her Majesty's government? Mr. Buchanan says, in a despatch dated November 2, that the testimony of the witness Strobel "was confirmed by several documents implicating Mr. Crampton, which had been given in evidence on the trial of Hertz. I told him he would see this on a perusal of the trial itself, of which I gave him a copy."

His lordship further says, the "violation of the sovereign territorial rights of the United States" alleged is the recruiting within the United States; but to assume that there was in fact any such recruiting (that is, hiring or retaining by British officers) is to beg the question; and this he says in the face of the fact that Hertz had been convicted before and sentenced by Judge Kane, the very judge on whose exposition of the law he had relied with so much confidence in another despatch. Hertz was not technically an officer, it is true, but he was an agent of her Majesty, and he was acting under the advice and auspices of her Majesty's Minister Plenipotentiary, John F. Crampton; and Lord Clarendon knew it when he wrote this note of November 16.

His lordship mentions, rather deprecatingly, that "Mr. Marcy cites no authority for the position he assumes," and he declares that "high authority *might* be quoted directly adverse;" but it is noticeable that his lordship cites no authority for his opinion. Before this he will have learned that Mr. Marcy is sustained by most of the eminent writers on international law. It is but just to allow the Secretary of State to speak for himself on this point. After restating his positions, and adverting to the fact that it has been controverted by Lord Clarendon, he says:—

"This, as a rule of international law, was considered so well settled that it was not deemed necessary to invoke the authority of publicists to support it. I am not aware that any modern writer on international law has questioned its soundness. As this important principle is controverted by Lord Clarendon, and as its maintenance is fatal to his defence of British recruiting here, I propose to establish it by a reference to a few elementary writers of eminence upon the law of nations:—

"'Since a right of raising soldiers is a right of majesty which cannot be violated by a foreign nation, it is not permitted to raise soldiers on the territory of another without the consent of its sovereign.'—*Wolfius*.

"Vattel says that—

"'The man who undertakes to enlist soldiers in a foreign country, without the sovereign's permission, and, in general, whoever entices away the subjects of another state, violates one of the most sacred rights of the prince and the nation.'

"He designates the crime by harsher names than I choose to use, which, as he says, 'is punished with the utmost severity in every well regulated state.' Vattel further observes that—

"'It is not presumed that their sovereign has ordered them (foreign recruiters) to commit a crime; and supposing, even, that they had received such an order, they ought not to have obeyed it; their sovereign having no right to command what is contrary to the law of nature.'

"Hautefeuille, a modern French author of much repute, regards permission—and acquiescence implies permission—by a neutral power to one belligerent, though extended to both, to raise recruits in its territories, unless it was allowed in peace, to be an act of bad faith, which compromises its neutrality.

"There can be no well founded distinction, in the rule of international law, between raising soldiers for a belligerent's army and sailors for its navy within a neutral country. Hautefeuille says:—

"The neutral sovereign is under obligation to prohibit and prevent all levying of sailors upon its territory for the service of the belligerents."

"Again he says:—

"The neutral must prohibit, in an absolute manner, the levying of sailors upon its territory to complete a ship's company reduced by combat, or any other cause.

"The prohibition to engage sailors on a territory of a pacific prince must extend to foreigners who are found in the ports of his jurisdiction, and even to those who belong to the belligerent nation owning the vessel that wishes to complete its crew or ship's company."

"Reference to other writers might be made to sustain the position contended for by this government, and to overthrow that advanced by Lord Clarendon, but the authority of those presented is deemed sufficient for that purpose."

Whether Lord Clarendon will be able to cite authority so directly in point to sustain his denial of Mr. Marcy's position, remains to be seen.

There is a passage towards the close of Lord Clarendon's despatch, which I introduce for the purpose of expressing my unqualified approval of the sentiment it contains, and to say that I, in common with the whole American people, as I firmly believe, regret, deeply regret, that the same spirit had not animated the whole of her Britannic Majesty's officers, agents, and subjects, at home and abroad, from the commencement of this business. It would have saved a deal of trouble. This is the passage:—

"The foregoing acts and considerations, which demonstrate that no offence to the United States was offered or contemplated by her Majesty's government, may, perhaps, have weight with Mr. Marcy, if the matter at issue is to be settled in a manner becoming the governments of Great Britain and the United States, and with a deep sense of the responsibility which weighs on them to maintain, uninterrupted and unshaken, the relations of friendship which now exist between the two countries; and her Majesty's government, fully reciprocating the feelings of the United States government, expressed in Mr. Marcy's despatch, with regard to the many ties and sympathies which connect together the people of the two countries, do not permit themselves to doubt that such further discussions as may take place on this question will be conducted in a spirit of conciliation."

To all of that I utter a hearty AMEN.

To this despatch of November 16, Mr. Marcy replies on the 28th of December in one of those masterly notes which a great mind produces only on great occasions. If the American Secretary had written nothing else, he might well rest his hopes of future fame on this letter. It is clear, distinct, and unmistakable in its positions, cogent and conclusive in its arguments, and powerfully overwhelming in its conclusions. The British Secretary is left not one inch of ground to stand on; and the complicity of Mr. Crampton, and other British officials, with the transaction in question, is demonstrated to a mathematical certainty. If they are not guilty they are the most unfortunate men alive. Other men (worse men of course) have been convicted and punished on weaker testimony.

I have not time to present the strong points of this paper, and I will not mar it by taking short extracts. No one desirous of reaching the kernel of this dispute should fail to read it carefully. It concludes as



it should, with a firm demand on the British government to recall Mr. Crampton, and consuls Rowecroft, Matthew, and Barclay, her Britannic Majesty's consuls at Cincinnati, Philadelphia, and New York.

I have now, Mr. President, run hastily through this correspondence, saving only the concluding note of Mr. Buchanan, written on the 1st of February of this year, to which I need not refer for any purpose connected with this debate. The conclusions to which my mind has arrived are briefly these:—

1. That the United States met the proposition of the British government for strict neutrality in a spirit of generous confidence, promising that "no Russian privateer should be equipped, or victualled, or admitted, with its prizes, in our ports;" and the United States has rigidly kept her faith.

2. That the British government—the first to ask neutrality—was the first to violate our laws of neutrality; and while for her own safety she was quick to place us under pledges not to countenance Russia, she was just as quick to invade our soil with a recruiting force, to violate our laws, infringe our rights of territorial sovereignty, and put at hazard our peace with a friendly power.

3. When called on for an explanation of her conduct in this regard, she denied, through her Secretary for Foreign Affairs, all complicity on the part of her officers and servants in these proceedings. She undertook to set our laws at defiance by asserting that her Majesty's government had "an incontestable right" to "appoint a place within her Majesty's dominions, to which recruits might be drawn from the United States to fill her Majesty's armies;" knowing at the time she took this position, that our laws made it a high misdemeanor for any person to hire another to "*go beyond the limits of the United States with the intent of being enlisted in the service of any foreign state.*"

4. That Lord Clarendon undertook the defence and justification of "her Majesty's officers and servants," for this purpose citing as authority Judge Kane's opinion on the hearing of Hertz's case on a habeas corpus; misquoting the learned judge, and wholly omitting then, or at any other time thereafter, to mention the fact that Hertz had been convicted before, and sentenced by the same judge. The conviction of Hertz proved that the law had been violated; and the justice of that conviction was placed beyond dispute by the fact that, according to Lord Clarendon, Judge Kane rightly expounded the law. The complicity of her Majesty's officers and servants is more clearly demonstrated by the evidence in Hertz's case, than is the guilt of Hertz. If he violated the law, they hired him to do it.

5. While Lord Clarendon asserts that he gave strict orders to British consuls "not to violate the laws," and enjoined on Mr. Crampton "above all to have no concealment from the United States government," he defends these parties, and undertakes to justify their conduct, after it is shown that the consuls at Cincinnati, Philadelphia, and New York, have violated the laws, and that Mr. Crampton was scrupulously careful to conceal all his movements from the government and people of the United States, having recourse to ciphers and cabalistic characters for this purpose in his telegraphic communications with his associates.

6. That, having obtained from Mr. Buchanan a *quasi* acknowledgment of satisfaction, on a partial understanding of the case, he under-

took, after its full development, to plead this acknowledgment in bar of any further inquiry, and became petulant and irascible when he failed of his purpose.

7. When Mr. Marcy, satisfied of Crampton's connection with this business, charged it upon him, he neither attempted to palliate nor deny it, but sent home for instructions, thus virtually acknowledging that he was acting under orders, and that the Home Government must take the responsibility.

8. Lord Clarendon continued to maintain that our laws had not been violated, asserting that, though we had resorted to despotic means to obtain evidence, nothing had or could be elicited to establish a charge against her Majesty's servants, and this after Hertz had been convicted, and the complicity of Crampton, Barclay, Matthew, Rowecroft, and others clearly demonstrated.

9. All these and other considerations, which are developed by the testimony and the correspondence, force the mind with irresistible power to the conclusion that there has been either a deliberate purpose to infringe our rights and violate our laws, or else an insulting indifference shown as to whether they were or were not infringed and violated. That their professions of friendship are not sincere; or, if they are, that the British cabinet place so low an estimate on our dignity as a nation as to conclude that, if they are our friends, they may treat us as they please. Either position is inadmissible.

10. And, finally, that the President and Secretary have, from the commencement, manifested a proper American spirit, and have lived up to the maxim of "asking for nothing but what is right, and submitting to nothing that is wrong." That no excuse or apology has been offered that ought to have been accepted. That they were right in asking the recall of the offending officers; and if the British cabinet refuse to recall them they ought to dismiss them forthwith. Such, sir, are the conclusions to which my mind has arrived.

It seems to me, sir, this question may be understood by reducing it to an issue as between private gentlemen. Let us for a moment put the two governments aside, and suppose the controversy to exist between General Pierce and Lord Clarendon. His lordship has personal interests to be looked after on the estate of General Pierce, and for that purpose he sends his private and confidential servant. The General receives the servant on the implied understanding that he is to commit no trespass, nor violate in any way the domestic regulations of the estate. In a short time he is found taking unwarrantable liberties with the General's property, and inciting his domestics to acts of insubordination. The General complains to his lordship, and is answered that "stringent instructions were given to the servant not to act improperly, and above all things not to have any concealment from General Pierce;" and his lordship adds, "I am sorry if anything has been done by my servant to give offence." Willing to settle the matter on easy terms, and not understanding fully what the servant has been doing, the General expresses a qualified satisfaction. Soon after, he finds that his lordship's servant, instead of discontinuing his objectionable practices, is still actively carrying them on, and to assure himself against detection, has resorted to secret signs and "ciphers," with which to communicate with the servants about the premises. General Pierce calls on Lord Clarendon

a second time, communicates these facts, and assures him that he has abundant proof of the continued misconduct of his servant, and respectfully but earnestly remonstrates against his being allowed thus to act. His lordship—instead of listening to the complaint, and at once satisfying the General of his sincere friendship, by reprimanding or removing the obnoxious servant—asserts that the servant has done nothing but what he had the right to do; accuses the General of resorting to despotic measures to get up testimony against him; and, finally, winds up the whole matter by broadly intimating that, as the General does not keep his own domestics in very good order, he has no right to be complaining of other people's servants.

On this statement of the case what would any fair-minded man say? Would not the universal judgment of every just man be that General Pierce's conduct had been gentlemanly and forbearing, while that of Lord Clarendon had been deceptive, haughty, supercilious, insolent, and overbearing, and that a decent self-respect would require the General to send the servant home with a civil message to his master to keep him there until they both learned better manners.

Now, if you will substitute the United States for General Pierce, Great Britain for Lord Clarendon, Mr. Crampton for his lordship's confidential servant, and the people tampered with for the domestics of General Pierce, you have this whole enlistment imbroglia in a nutshell.

What the President means to do I am not authorized to say; but if he does not give Mr. Crampton his passports, and revoke the exequaturs of consuls Matthew, Barclay, Rowecroft, and others complicated in this business, we had as well hang the national harp upon a willow, and cease talking about the honor and glory of our country.

In what I have felt called upon to say, Mr. President, it has been my purpose to speak plainly—if you please, bluntly—for I am a plain, blunt man; but it has been no part of my purpose to incite a war spirit in the country. Next to dishonor, I should regard a war, and a war with Great Britain especially, as the greatest calamity that could befall our country. If the British government is not seeking a quarrel with us, we shall have no war. We are right in the controversy; and when Lord Clarendon and the British cabinet and people see that we are in earnest, and mean to be respected, they will do us justice, unless they are seeking war. If, on the other hand, Great Britain is seeking a quarrel, we may have war. The present affords her a decent pretext for urging it on; and in that view of the subject the sooner matters are brought to an issue the better.

I know not by what spirit the British cabinet may be actuated, but on the good sense, the sound judgment, and the interested friendship of the British people, I have the firmest reliance. They will make no war with us if they can help it. The calamities to our country would be great indeed; but the disasters to British trade, to British labor, and to British commerce would be incalculable. A war would stop our cotton gins, but it would also stop her spinning jennies. If she can afford to quit spinning cotton, we can afford to quit raising it. But enough of this. I hope we shall have no war; there is not an American citizen who ought to desire it. I hope there are very few who would not avoid it so long as it can be avoided on honorable terms; nor one who would not hail it as a blessing, if the honor of the country required it.

It is to be hoped that the British government will not push this matter to the *ultima ratio* of war, or submission to her will, and the insolence of her servants. If she does, I choose the former: the country, in my opinion, with one voice will choose the former. It will be found that our love of peace does not carry us to the point of craven submission to insult; and that however we may differ and wrangle among ourselves, we demand respect from strangers towards every member of the political household. As against a common foe we should, I am sure, present a broad, united front extending from Maine to California. We should vie with one another in deeds of devotion to a common and beloved country. We should show the world that, broad as our country is, diversified as are her interests, she is loved with a singleness of devotion by all her sons; that we love her great valleys, and her high mountains; her deep, blue lakes, and her broad, clear rivers; her fertile soil, and her rich mines; her great cities, and her vast commerce; that she is ours in all her grand proportions, and that

“The pedestal on which her glory stands  
Is built of all our hearts and all our hands.”

## DISTRICT OF COLUMBIA.

SPEECH IN THE SENATE OF THE UNITED STATES, APRIL 25, 1856, ON THE  
JURISDICTION OF CONGRESS OVER THE DISTRICT OF COLUMBIA.

MR. PRESIDENT: I do not desire to occupy the attention of the Senate, because it is my wish to have the District bills disposed of as soon as possible; but after the debate which has occurred, I feel it to be my duty to say a few words.

I differ from the senator from Georgia in regard to the question of jurisdiction. We start from different points. He says, that the Constitution gives to Congress the exclusive power over the District of Columbia. I think there is something more than that to be taken into account. The original proprietors of the soil on which the city of Washington now stands, when they ceded the soil to Congress, expressly provided that the jurisdiction over the streets and reservations should remain in Congress, for the benefit of the people of the United States. When you accepted the cession, it was, as a matter of course, upon the conditions of the deeds. According to the original authorities, according to your Presidents, your Congresses, your Attorneys-General, and all who examined the subject, it was decided that the jurisdiction was in Congress and was inalienable. That this thirty-fourth Congress has the right to give a particular party the privilege of occupying a street or reservation for the time being, I am ready to admit; but if the next Congress be dissatisfied with it, they have a right to require the party occupying it under the authority of the thirty-fourth Congress to remove from its occupancy. The ground on which the report of the committee, on which the senator from Georgia has commented, is based, is that no one Congress has a right to cede the streets and reservations in perpetuity either to a corporation or to an individual.

The report does not deny that Congress may give to this company the temporary use and occupancy of a portion of Pennsylvania avenue. What it denies clearly and distinctly is, that Congress has power to cede the occupancy of the territory in perpetuity to a corporation; because that is a cession of the jurisdiction which no one Congress can make, on the broad ground that the jurisdiction must be exercised equally by one Congress as by another.

My friend from Georgia says that, under the act of 1854, this company had the right to cross Pennsylvania avenue. I take issue with him on that point. By the first section of the law it was clearly contemplated that the road should cross the Potomac river, above the aqueduct, at Georgetown, and then it was provided that they should not pass through or along Pennsylvania avenue. If you will take up the map of the city you will see, that if they crossed the Potomac river at that point they would have had no occasion whatever to pass through, along, or across Pennsylvania avenue. Congress, in enacting that section, designed to prevent their passing along or through the avenue from Georgetown to Washington. The company had not then proposed to cross Pennsylvania avenue. They proposed to bring their road to the Potomac river, and to cross the river at a point above Georgetown, and hence they would have to go out of their way to cross Pennsylvania avenue. Their proposition, then, was to come into the avenue at its western end, and come along and through it to the Capitol, and then turn off to the Baltimore and Ohio depot. Congress was guarding against the proposition then before them.

If anything which was suggested, or if anything which was before Congress, could have led, in the remotest possible degree, to the supposition that there was a purpose to cross Pennsylvania avenue, the phrase, "you shall not cross it," would have been used. The very fact that it was then proposed to come over the Potomac above Georgetown excluded the possibility of anybody entertaining the idea that they meant to cross Pennsylvania avenue. That would bring them into Washington at a point north of the avenue; and why once being north of it, they should cross it to the south, and then cross it again to another point to reach the Baltimore depot, and take this zigzag course, would be unexplainable. They would have had to cross it twice, if that was their object. There would have been no sense and no reason in that. As I have stated, however, the proposition was, that they should have power to come along the avenue, to occupy it, to put their railroad upon it, and Congress meant to guard against that. There was no proposition at that time to cross the Potomac at the Long Bridge. I will read the enactment. The first section of the act provided:—

"That the Alexandria and Washington Railroad Company, incorporated by the legislature of Virginia on the 27th of February, 1854, to construct a railroad from Alexandria, in the state of Virginia, to the city of Washington, in the District of Columbia, be, and they are hereby, authorized to extend their road from any point on the Virginia side of the Potomac river to which said road may be constructed, at or above the aqueduct of the Alexandria Canal, into the District of Columbia."

Not at the Long Bridge, where they are now crossing the river. No authority was given them to cross the river at that point, but "at or above the aqueduct," which is two or three miles beyond the point where they are now crossing the river. What then? The act goes on to provide:—

"Connecting with the Baltimore and Washington Railroad depot by the most convenient and practicable route or routes, passing through and along such streets and avenues, except the Pennsylvania avenue, of Washington and Georgetown, as the corporate authorities thereof may respectively approve, subject to certain conditions hereinafter expressed."

The whole legislation proceeded on the idea that they were to cross the Potomac river at, or above, the aqueduct; and that then they should not come along Pennsylvania avenue. They were not interdicted the privilege of crossing the avenue, because nobody supposed that they could ever design to do such a thing. If they had proposed to cross the Potomac river at the Long Bridge, Congress, no doubt, would have said, "You shall not cross Pennsylvania avenue;" because then it would have occurred to everybody at once, that if the railroad reached this side of the river by way of the Long Bridge, it would be necessary to pass over Pennsylvania avenue in order to get to the Baltimore depot. Inasmuch, however, as they proposed to come across the Potomac river at a point far above the bridge, and above the termination of the avenue, there was no necessity for saying that they should not cross the avenue, for such a thing could not have been in contemplation. I think that it is perfectly clear.

My friend from Georgia says that this whole question is one of convenience to senators. No, sir, it is no question of convenience to senators. The question is whether we shall preserve this great thoroughfare from the encroachments of private corporations? If this were the only means of connecting Alexandria and Washington by a railroad, I would say, whatever might be the temporary inconvenience, I would grant it; but that is not so. You have graded the streets; you have made them convenient for laying down a railroad track; and a private company occupies them because you have expended the public money in preparing them for the track.

Mr. President, the whole scheme involved in this matter is an attempt to induce Congress to build a bridge across the Potomac river for the benefit of a private company. This matter commenced by an appeal to Congress to allow this company to cross the Long Bridge with its railroad. Congress refused, and told them, "You shall not cross there at all, but you must reach the District side of the river at or above the aqueduct." Next we ascertain that they are running a railroad toward the Long Bridge on both sides of the river, not, it is true, crossing the Long Bridge, but evidently contemplating that Congress hereafter is to build a bridge at that point, and give this company the right to run their railroad on it, which is but giving them \$1,000,000, I tell you now, from the national treasury for a private company. It will cost \$1,000,000 to construct a bridge across the river suited for a railroad at this point; and this company now contemplate the erection of a bridge there by the government for their private use. If they did not so contemplate, it would be a matter of no consequence to them whether they ran the railroad where it now is, or not.

I have said that, if there were no other way of connecting Alexandria and Washington, I should withdraw my objection, and allow this track to remain where it is; but there is another way, a better way, a more convenient way, a more proper way in all respects; and that is to allow the Baltimore and Ohio Railroad Company to cross the eastern branch of the Potomac at the Navy Yard, to go down on the north side

of the Potomac river, to cross the Potomac opposite Alexandria, by steam ferry-boats, thus abstaining from interference in the navigation of one of God's great highways. Sir, I esteem this whole proceeding as but an incipient step towards the erection of a bridge below Georgetown, which is to be permanent, and lasting, and ruinous to that ancient city. While I feel bound to protect the interests of Washington, I also feel bound to protect the interests of Georgetown. Both are within the District of Columbia; both are subject to our care, and both should receive our protection. I tell you now, sir, that, if you permit this obstruction to stand, the result will be that by and by this company will cross the Potomac at a point near that where the Long Bridge now stands, and on a bridge erected by the government out of the public funds. That is the scheme; I am opposed to it. If they wish to cross the Potomac at or above the aqueduct, as the law prescribed, let them do it; or if they wish to change their policy, and cross the eastern branch at the Navy Yard, and go down on the north side of the Potomac, and reach Alexandria by a steam ferry-boat from a point opposite that city, let them do that; neither will interfere with the commerce of Georgetown, nor with any of the rights given to any portion of the people of this District by nature.

I shall not go further into the question; in fact, I did not rise to discuss it; but when the senator from Georgia attacks the report in this case as resting upon unsound principles, I beg to say to him that I have looked somewhat into the authorities, and I feel perfectly assured that on the legal proposition we are right: that this company had no authority to put the road where they have put it, and that they placed it there in violation of law. I say further that the city authorities of Washington have no jurisdiction over the streets. I do not mean to say that the corporate authorities have not the power to improve, to adorn, to beautify these streets. I do not mean to say that Congress may not give them the temporary jurisdiction over the streets; but I do pretend to say, on the authorities which I have consulted, that the jurisdiction is so perfectly vested in Congress for the benefit of the people of the United States that it is inalienable, and that they have no right to part with it.

Mr. TOOMBS. I ask the senator if we have any more jurisdiction over this District than Mississippi has within her limits?

Mr. BROWN. Certainly not.

Mr. TOOMBS. Cannot Mississippi vest the control of the streets and avenues in the city of Natchez in the corporate authorities of that city?

Mr. BROWN. I stated before that you received the precise soil on which Washington City stands, not by a deed of cession from Maryland and its acceptance by the United States. I know that, by that deed, you got the general political jurisdiction under the Constitution; but in addition to that, there were special deeds from the proprietors of the soil, giving it to the United States on conditions which they expressly prescribed in the conveyance. One of these was that the jurisdiction should be in the United States or in Congress, for the benefit of the people of the United States. If you can violate the deeds under which you hold the soil, and under which you accepted the property from the original proprietors, you can cede jurisdiction in perpetuity to the corporation of Washington; but I maintain that you cannot do it. If you

can, what Congress is to do it? This one? Will not the next Congress have the same power which this has? If the two agree, will not the third have the same power that both the others had? I hold the doctrine to be sound, that when the jurisdiction is in Congress for the benefit of the people, you may grant the temporary use, but you cannot alienate the jurisdiction. This is the doctrine of the report.

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## ADMISSION OF KANSAS.

SPEECH IN THE SENATE, APRIL 28, 1856.

The Senate, as in Committee of the Whole, having under consideration the bill to authorize the people of the territory of Kansas to form a constitution and state government, preparatory to their admission into the Union when they have the requisite population—Mr. Brown, said :—

WITH the indulgence of the Senate, I propose to submit a thought or two on some of the points involved in this debate.

I will not enter the list with those whose range is over the whole wide field which this Kansas question has opened up; but shall confine myself to a few points on which I think the controversy mainly rests—points which I believe lie further back than most of our speakers have yet gone. To whom does the proprietorship of the territories belong? How far does the legislative authority of Congress extend over the territories? What are the political rights of the inhabitants there, and in whom does the sovereignty reside? These are the points which I mean, not separately, but collectively, to consider. It is time we had come to an understanding on these points; a failure to do so at the proper time has, I think, involved us in much of the embarrassment which we now suffer.

It will be seen at once that the line of argument which I have marked out for myself will lead me to consider, to some extent, the doctrine of "squatter sovereignty." This doctrine, however well designed by its authors, has, in my judgment, been the fruitful source of half our troubles. Before the people of the two sections of the Union having—as they supposed, though I think erroneously—hostile interests, and already inflamed by angry passions, were invited into the country, we, who gave them laws, should have defined clearly and distinctly what were to be their rights after they got there. Nothing should have been left to construction. I believed when the Kansas bill was passed that it conferred on the inhabitants of the territories, during their territorial existence, no right to exclude, or in anywise to interfere with, slavery. I then thought, and still think, it the duty of the law-making power in a territory to treat all property alike; to give the same protection to one species of property that it gives to another. But I knew at the time, and still know, that others were of a different opinion. Many, whose opinions I am accustomed to respect, believed that the law-makers



could discriminate against slave property. It is time we had settled this delicate and perplexing question. To me it is, therefore, a source of unfeigned satisfaction that the senator from Illinois [Mr. Douglass] has brought forward this bill. I see in it the germs of a final and lasting settlement on a firm and a solid basis. It carries out the original design of the Kansas-Nebraska act as I understood it. It fixes the period at which the inhabitants of a territory may ask its admission into the Union as a state; and the report by which it is accompanied denies all sovereignty in the territory during its territorial existence. If we pass it, it will be done, I hope, on the distinct understanding that, hereafter, a territory can only ask admission into the Union as a state after it is ascertained by a census, lawfully taken, that it has the required federal population to entitle it to at least one representative in Congress, and upon the further understanding that the sovereignty is not in the territory, but that it is in abeyance, held by the states or the United States in trust for the territory until its admission as a state.

The advocates of state-rights have always held that the territories are the common property of the states; that one state has the same interest in them as another; and that a citizen of one state has the same rights to go to them as a citizen of any other state. The corollary, therefore, has been, that a citizen of any one state has the same right as a citizen of any other state to go into the territories and take with him whatever is recognised as property in the state from which he goes. Thus, if a citizen of Massachusetts may go and take with him a bale of goods, a citizen of Tennessee may go and take a barrel of whiskey; and if a citizen of New York may go and take a horse, a citizen of Mississippi may go and take a slave. It must be so, or else the equality of the parties is destroyed—Tennessee becomes inferior to Massachusetts, and the rights of a Mississippian are inferior to those of a New Yorker.

This doctrine finds opposition nowhere but among the advocates of that uncertain theory which some call territorial sovereignty, others popular sovereignty, and others again squatter sovereignty—a theory which the author of this bill so well combats in the declaration “that the sovereignty of a territory remains in abeyance, suspended in the United States, in trust for the people, until they shall be admitted into the Union as a state.” To this declaration I give my assent. It would, perhaps, have been more exact to have said that the sovereignty is in the states; but if it is in the United States *as a trust*, it can never be used by the trustee for his own purposes; and therefore, while it may not be so sound in theory, it will be found quite as safe in practice, to admit that it is in the United States.

I have said that the states were equal and had equal rights in the territories; and I have thereby admitted that Massachusetts is equal to Mississippi, and has all the rights in the territories which I claim for Mississippi. If this equality does not exist, why does it not? Did it never exist, or has it been destroyed? That it did exist, is manifest from the very nature and structure of the government under which we live. The states were equal before they adopted the Constitution, and they entered the confederacy as equals. That the equality has not been destroyed, is proven by the organization of this body, in which the smallest

state has two votes, and the largest has no more. The states were equals out of the Union—they are equals in it.

The power which can destroy the equality of the states must be that supreme power which we call the sovereignty—the power in the states which is superior to all other powers.

Where does this power reside? Is it in Congress? May Congress exercise the power of a sovereign in the territories?

The doctrine of congressional sovereignty I understand to be denied in the report which accompanies this bill. The eminent and distinguished author of that report [Mr. Douglas] reposes the sovereignty in the United States in trust for the territory, until it becomes a state. I need hardly use an argument to show that a trustee cannot use a trust for his own purposes, nor for purposes not clearly embraced in the deed. A fund held in trust for an infant, to be delivered when he comes of age, must be held without waste, and delivered to him without deduction at the proper time. The same rule, I apprehend, will hold as between the United States and a territory.

If Congress may, at pleasure, use a trust confided to the United States for the benefit of a territory, so as to exclude slavery from that territory, then there can be no reason why Congress may not, in the exercise of the same trust, exclude spirituous liquors, foreign and domestic goods, or everything else that offends the prejudices or excites the passions of the trustee, or, I should rather say, the representative of the trustee, for Congress is but the representative of the United States.

I am not going to discuss the constitutional power of Congress to exclude slavery from the territories. If the argument on that point has not already been exhausted, it has at least become threadbare. It is asserted and maintained with great unanimity, by all sound Democrats, that Congress has no such power. If Congress has not the authority, who has? Where does it reside? Is it in the territorial legislature? What is a territorial legislature? It is the creature of Congress. Can Congress confer powers it does not itself possess? Can the creature derive powers which do not belong to the creator? Can the stream rise higher than its source? The manifest answer to all these questions must be, NO. Congress can confer on the territories just such powers as itself possesses, and none other; and as Congress does not possess these powers, it cannot confer them on the territorial legislature.

The excluding of slavery, or any other property, from a country, is a high act of sovereignty. If Congress, representing the party *holding the sovereignty in trust*, may exercise this power, then Congress ceases to be the mere agent of a trustee, and becomes the owner and paramount title-holder. If the territorial legislature may exclude slavery, or otherwise exercise the rights of sovereignty in the territory, it must do it by virtue of a special grant from the trustee; but if the United States invests the territory with that sovereignty, or any part of it which it holds in trust to be delivered up when the territory becomes a state, it abuses its trust—as much so as if a guardian, holding property in trust for an infant ward, to be delivered when the ward becomes of age, abuses his trust if he deliver the property during the minority of the ward.

These reflections have been produced by no disposition to carp at, or find fault with, any one's doctrines or opinions, but from an earnest

desire to reach wise and salutary conclusions as to what is the true theory on this troublesome point.

There seems to be a certain undefined idea in the minds of some men that the sovereignty of a territory is inherent in the people of a territory; that it came to them from on high—a sort of political manna, descended from heaven on these children of the forest. This doctrine, I confess, is a little too ethereal for me; I do not comprehend it; but this I know—if the sovereignty is in the people of the territory, whether they obtained it from God or men, the conduct of this government towards them is most extraordinary. It is nothing short of downright usurpation and despotism. We have now seven governors appointed by the President, by and with the advice and consent of the Senate, to govern the seven territories of the United States. We have seven different sets of territorial judges, appointed in the same way, to expound the laws for the seven territories. We have marshals to arrest, and district attorneys to prosecute, the inhabitants of these *sovereignities* in their own country. We require the territories to legislate in obedience to our acts; and, lest they may go astray, we sometimes oblige them to send up their laws for our approval. It has happened, time and time again, that their legislation has fallen under the disapprobation of Congress, and thereby became void. What a mockery to disclaim the sovereignty yourselves, declare that it is in the people of the territory, and then send a governor to rule them, judges to expound their laws, marshals to arrest, and district attorneys to prosecute them; and, finally, to require these sovereigns to send up their laws for your sanction; and then, by your disapproval, to render them null!

If the sovereignty is not in Congress, and not in the territories, you ask me where is it? The question has been answered by the senator from Illinois in the very able report which accompanies this bill. He says "it is in abeyance, suspended in the United States in trust for the people of the territories, until they are admitted into the Union as a state." I have already indicated my entire willingness to adopt this answer, though I should have answered somewhat differently myself. I should have said it is in the states, or, if you please, in the people of the states.

It may be well, in this connection, to give my own views on this point. I hold that the rights of sovereignty over the territories, never having been delegated to Congress, are, in the language of the Constitution, reserved to the states, or to the people of the states.

When the Constitution was framed, there were no such people as the people of the territories. The people spoken of in the Constitution must, therefore, have been the people of the states, for there was none other.

The sovereignty being in the states or in the people, Massachusetts must retain her part, New York hers, Tennessee hers, Mississippi hers, and all the other states their parts respectively, to be held and exercised jointly until the territory, with the requisite population, legally and constitutionally ascertained, and with a republican form of government, asks admission into the Union as a state. As she steps into the Union, she becomes coequal with the other states, and, *eo instanti*, the sovereignty passes from the states as they now exist into the new state.

It will be seen at once that I make a wide difference between *existing*

and *incipient* states. On this point, I believe, the practice of the government has been right. That practice has marked the difference in broad and legible characters between states and territories. The existing states have always elected their own governors, appointed their own judges, and no man in his wildest fancies has ever dreamed of having a state send up her laws for the approval of Congress. The sovereignty of the states has been manifested in a full and unrestrained freedom with which they have acted on all these points. Exactly the contrary has been true in reference to incipient states or territories. Whenever they have acted, it has been in subordination to the authority of Congress—a subordination which, at once, in my judgment, destroys all idea of sovereignty.

The President's annual message to Congress, I am glad to say, is marked by a boldness and originality of thought and a frankness of expression that challenges and receives the tribute of my sincere admiration. In that paper he declares that "the country has been awakened to a perception of the constitutional principle of leaving the matter (slavery) to the discretion of the respective existing and incipient states." I have no criticism to make on this language; I quote it only to say, that if, by an incipient state, the President means a territory with the requisite population to entitle it to one representative lawfully ascertained, and in the act of forming a constitution preparatory to admission into the Union as a state, then I agree with him fully, entirely, and cordially. Such an incipient state has the right to settle the slavery question for herself. There can remain but one act necessary to the perfection of that right, and that is, her actual admission as a state. If Congress, however, should exclude her, her action in regard to slavery would fall with the rest of her constitution. She would, in that case, resume her position as a territory. There can be no such thing as a state out of the Union.

I take this occasion to declare before the Senate, that a territory asking admission into the Union as a state ought not to be excluded on the ground that her constitution admits or prohibits slavery. If, in all other respects, she is prepared for admission, it would be a monstrous outrage to exclude her on account of the *pro* or *anti*-slavery feature in her proposed constitution.

I have not denied, and do not mean to deny, the right of self-government. We may differ as to what constitutes self-government; but I will go as far as any other man in maintaining the right. Do you ask me what, in my opinion, the people of a territory have a right to do? I answer, unhesitatingly, they may do whatever is necessary to protect the public morals, or insure the public safety. Thus: the territory may require spirituous liquors taken there from Ohio to be so kept and so used as that the public morals may not suffer thereby; and it may require a vicious animal taken from another state to be impounded, or so disposed of as that the public safety may not be endangered. And, upon the same principle, I admit it to be within the competency of the territorial legislature to regulate the use of slave property. To *regulate*, however, is one thing; to *destroy*, without cause, and in simple obedience to public prejudice, is another and a very different thing.

It is competent for the sovereign to say what is and what is not property within his dominions. It will require the highest attributes of

sovereignty, however, to determine so important a question as this—attributes, in my judgment, far above those that belong to this Congress, or to the territories—attributes which are inherent in the states, and not having been delegated are yet in the states, and nowhere else.

I have spoken of slaves simply as property, because it is in that relation that they will go to the territory, if they go there at all. Considered as persons only, there would perhaps be no effort made to exclude them. The relations between master and slave, parent and child, husband and wife, are all proper subjects of legislative regulation; but no one of them more than another is a proper subject for legislative distinction. It would be a monstrous exercise of power to dissolve all the matrimonial ties in a territory, and absolve all the children from obedience to their parents; and yet it would require no greater power to do this than it would to break what is flippantly called the fetters that bind a slave to his master.

Am I asked if there is no power—no right anywhere to abolish or prohibit slavery in the territories? I answer emphatically that there is. It is in the states. A territory is common ground. The states meet there as equals. No one has rights superior to another. So long as the equality can be maintained and good faith preserved, no prohibitory or other act against slavery is necessary. If divisions spring up and discord takes the place of harmony, then one of two things may be done; and either, in my judgment, will be consistent with the obligations, rights, and duties of all the parties to the compact of our Union.

I do not mean to say that either of these remedies ought to be resorted to. On the contrary, I should deprecate a resort to either; I only say that either *may* be resorted to. If there shall ever be a necessity for either, the days of the Union, in my opinion, will be numbered.

If the states cannot occupy the territory jointly, the first and best remedy is to divide it. This may be done by a compact between the states. The compact, however, must be made by the states so acting in concert as to give the force and effect of a constitutional obligation to their expressed will. It cannot be done by Congress nor by the state legislatures. Congress may propose, and the states, speaking through their legislatures, may ratify an agreement, and thus give it the force and binding obligations of a compact. The states, acting through a convention of delegates so chosen as to represent the sovereignty, could make a compact. But as neither Congress nor the state legislatures represent the sovereignty, neither can make a compact that would be binding on the states.

The Missouri compromise, though passed by Congress and acquiesced in for a long time by the states, was never a compact, not having received at any time the sanction of the states with a view to make it so. I do not mean to say that compacts are provided for in the Constitution; but I do mean to say that, looking to the nature and structure of our government, it is my opinion that agreements may be entered into between the states that will be of higher authority than mere legislative enactments, and yet of lower dignity than a written constitution. If a compact, such as I have mentioned, cannot be made, and discord continues to reign, the next and only remaining remedy is to prohibit or abolish slavery in the territories, as you would do it in the states, by a

change of the Federal Constitution. The mode is pointed out in the fifth article of the Constitution, in these words:—

“The Congress, whenever two-thirds of both Houses shall deem it necessary, shall propose amendments to this constitution, or, on the application of the legislatures of two-thirds of the several states, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes, as part of this constitution, when ratified by the legislatures of three-fourths of the several states, or by conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by the Congress: *Provided*, that no amendment, which may be made prior to the year 1808, shall in any manner affect the first and fourth clauses in the ninth section of the first article; and that no state, without its consent, shall be deprived of its equal suffrage in the Senate.”

If it shall be said that this is a plan of impracticable execution, I reply, it is so “nominated in the bond”—the bond of our Union, the bond of our safety—and I would not demand of you the pound of flesh, I will yield nothing to your demands that is not “nominated in the bond.”

I utterly deny the power of Congress over slavery in the territories. The majority report of the committee, in my judgment, takes the true ground, to wit: that Congress derives its power to make laws for the territories from that clause in the Constitution which gives it the right to admit new states. If Congress has the substantive power to admit a new state, it follows, as a necessary incident, that it has the right to prepare the state for admission; but in thus preparing a state, it will be an assumption of power not warranted by the grant, to take advantage of her weak and dependent condition, and to shape and mould her institutions as to force her *volens volens*, to take sides with one or the other of the parties to a sectional contest.

It was to avoid all suspicion of foul injustice like this to the territory, as well as for the purpose of steering clear of an unhappy and unnatural sectional conflict, that the Kansas bill declared it to be “the true intent and meaning of this act not to legislate slavery into any state or territory, nor to exclude it therefrom; but to leave the people thereof perfectly free to form and regulate their domestic institutions in their own way, subject only to the Constitution.”

I concur fully with the able senator from Illinois in saying that the inhabitants of Kansas, during their territorial existence, “are entitled to enjoy and exercise all the privileges and rights of self-government, in subordination to the Constitution of the United States, and in obedience to their organic law, passed by Congress in pursuance of that instrument.” I would leave the people there perfectly free to regulate their domestic affairs in their own way, subject to the Constitution and their organic law. But I can never admit that the power to regulate carries with it the right to destroy; or that the people of a territory, having the right to regulate an institution within their limits, have necessarily, or by any fair inference, the right to exclude that institution from the territory. And in this view of the subject I am sustained, I think, by the luminous and powerful report of the senator [Mr. Douglas] who introduced the bill. The senator indicates in that report that Congress has no power to exclude from the territories the domestic institutions of the states; and that the territories, deriving their legislative powers solely from the Constitution, through the acts of Congress, can, of course, do nothing which they are not empowered to do, either by the

Constitution or by Congress. But it is better, perhaps, to take the very words of the report. It says:—

"The organic act of the territory, deriving its validity from the power of Congress to admit new states, must contain no provision or restriction which would destroy or impair the equality of the proposed state with the original states, or impose any limitation upon its sovereignty which the constitution has not placed on all the states. So far as the organization of a territory may be necessary and proper as a means of carrying into effect the provision of the constitution for the admission of new states, and when exercised with reference only to that end, the power of Congress is clear and explicit; *but beyond that point the power cannot extend*, for the reason that all 'powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states, respectively, or to the people.' In other words, the organic law of the territory, conforming to the spirit of the grant from which it receives its validity, must leave the people entirely free to form and regulate their domestic institutions and internal concerns in their own way, subject only to the Constitution of the United States, *to the end that when they attain the requisite population, and establish a state government in conformity to the Federal Constitution, they may be admitted into the Union on an equal footing with the original states, in all respects whatsoever.*"

This explanation is apposite and conclusive. It denies to Congress the constitutional power to go further than to give an organic law to the territory; and it places the denial on the impregnable basis of leaving the new state which is to grow out of the territory "at perfect liberty to seek admission into the Union on an equal footing with the original states in all respects whatsoever." States have been admitted as non-slaveholding states, because they chose to exclude slavery; others have been admitted as slaveholding states, because they chose to hold slaves. Congress, in the days of their incipency, did not undertake to mould and fashion their institutions. If other states are to be admitted on "an equal footing in all respects whatsoever," Congress must preserve a like course of non-intervention in their domestic affairs, in the days of their incipency. If Congress has no other power than to give an organic law to the territory—if, in the language of the report, "the authority cannot extend beyond that point," then it is clear Congress has not, because it could not confer upon the territory the right to exclude slavery; and if, as is pertinently said in another part of the same report, "the rights and privileges" of the people of the territory "are all derived from the Constitution, *through the acts of Congress,*" and "they have no inherent sovereign right to annul the laws" which Congress has given them, it becomes equally clear that they have no authority derived from any quarter—either the Constitution, the acts of Congress, or the God of nature, during their period of territorial existence, to exclude slavery. Such is my understanding of the report—such I believe to be the true intent and meaning of its author; and so understanding, and so believing, I give to the report my cordial and unqualified endorsement and approval.

If, contrary to the opinions I have expressed, and contrary to the opinions so clearly indicated in the report of the committee, the people of a territory have the right to exclude slavery, or other state institutions or property, it follows, as a matter of course, that a territory is as much a sovereignty as a state. Nebraska is equal in dignity to Virginia; and Kansas may do within her limits whatever South Carolina may do within hers. A territory may, and of right ought to, elect its own governor, appoint its own judges, make and expound its own laws, and, in short,

do whatever a free and independent state may, of right, do. Kansas would, in fact, be superior in many respects to South Carolina. That venerable and patriotic state, having joined the confederacy, has parted with her right to make treaties and form alliances; but Kansas being a sovereignty out of the Union, I can conceive of nothing that is to prevent her from making treaties, contracting alliances, or doing anything else which a sovereignty may do, even to the extent of uniting her destiny with that of England or France. If an incipient state is equal to an existing state on the subject of slavery, I cannot, for the life of me, see why the equality does not extend to everything else; but I can and do see that a state in the Union has parted with many of her political rights, whereas a state out of the Union has parted with none of hers; and, therefore, that it is better to be a state out of the Union than a state in it.

I cannot close my remarks on this branch of the subject without thanking the honorable senator from Illinois [Mr. Douglas] for his powerful vindication of the constitutional rights of all sections of the country. While he deals justice to the South with a liberal hand, he deducts not one jot nor tittle from the equal rights of the North. He holds the scales of justice in equal balance between the two sections. This all fair-minded men must applaud. For myself, I ask nothing more, and will accept nothing less.

A word more, Mr. President, and I have done. In passing the Kansas bill, Congress, in my opinion, committed one error; and out of that error has grown much of the confusion and discord which have ever since distracted the inhabitants of the territory. It was just to repeal the Missouri restriction; but it was unwise to leave the inhabitants of the territory in doubt as to the extent of their real powers. It was a grievous error not to have defined precisely what we meant "by leaving the people of the territory perfectly free to form and regulate their domestic institutions in their own way." The report of the committee, and the bill under consideration, propose to correct that error. The report defines with accuracy and precision what are the rights of the territory during its territorial existence; and the bill proposes to authorize the legislature of the territory to provide by law for the election of delegates by the people, and the assembling of a convention to form a constitution and state government, preparatory to their admission into the Union on an equal footing with the original states, so soon as it shall appear, by a census to be taken under the direction of the governor, by the authority of the legislature, that the territory contains ninety-three thousand four hundred and twenty inhabitants—that being the number required by the present ratio of representation for a member of Congress."

This is as it should be. It points to the time and circumstances under which Kansas may seek and receive admission into the Union as a state. When she seeks admission according to the terms prescribed in this bill, she shall receive it if my vote will give it to her, and I will not inquire whether her constitution sanctions or excludes slavery.

I have always believed, and now declare, that whenever a census has been fairly taken, and the result has shown that a territory has the federal population to entitle it to one representative in Congress, it has the right to form a republican constitution, and ask admission into the Union as a state; and I now give notice to all whom it may concern, that I will vote in all cases for the admission of states thus applying, without



a why or a wherefore, and without stopping to inquire whether their proposed constitutions recognise or prohibit slavery.

If this bill passes, as I sincerely trust it may, we shall have established a precedent that will stand, I hope, as a landmark and a guide in all time to come. It will fix a period at which the people of a territory, acting within the purview of the Constitution, in obedience to the authority of Congress rightfully exercised, and with the entire consent of all the people, may peaceably assemble and decide the slavery question for themselves. When they have thus decided, there will doubtless be a universal acquiescence. Passion will subside; reason will resume her dominion; there will be no further cause of bickering; and we shall say with one voice, to all the territories, "Go thou and do likewise."

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On the 12th of May, 1856, Mr. BROWN continued the debate, in reply to Mr. Cass, as follows:—

I have a few words to say in reference to the last allusion of the distinguished senator from Michigan to a speech which I made the other day. He has alluded to what I said in reference to two distinguished gentlemen. Whatever deduction I drew from the language employed by either of them was based entirely on the papers which were before me. So far as relates to the senator from Illinois [Mr. Douglas], he is a member of the body, and can say, for himself, whether or not I drew correct conclusions from his language, and therefore I shall not comment on that point. The President of the United States, however, is not a member of the body, and has no opportunity of being heard here; and, so far as I deduced a conclusion from his language, it may be proper that I should at this stage of the discussion introduce a word of explanation.

I quoted a solitary sentence from the late annual message of the President to Congress, and from the language employed in that sentence did not draw a conclusion, but put my case hypothetically. I said, "If he means so and so, I concur with him fully." I did not say that I concurred with the President, because I did not feel quite sure that I understood him as he desired to be understood. He said in his message that the country had been awakened to a perception of the "constitutional principle"—mark you, sir, "constitutional principle"—of leaving the people of existing and incipient states to regulate the slavery question for themselves.

I directed attention to the words "incipient state," and I desired to know their meaning. I said that if, by an incipient state, the President means a territory, with population sufficient to entitle it to one representative in Congress, in the act of forming a state constitution preparatory to admission into the Union as a state, I concurred with him. I did not state the other side of the proposition; I now understand the senator from Michigan as speaking by authority—

Mr. CASS. Not at all. I have merely quoted from the message. I have never passed a word with the President on the subject in my life.

Mr. BROWN. Then let me ask, does my friend from Michigan understand him to mean that a territory at any time before or after its organization is an incipient state, and has the right, as such, to settle the

slavery question for itself? Does he understand the President as so meaning?

Mr. CASS. The clause which I quoted does not use the phrase "incipient state" at all, but speaks of territories generally.

Mr. BROWN. The clause which I read contained that expression, and I commented on that only. I understood it, as I am willing now to understand it, and as I hope the President meant to have it understood, that an incipient state is a territory in the act of forming a state constitution. If the President had meant a territory, he would have used the word territory, and not spoken of an incipient state. What I understand by an "incipient state"—what I am willing to understand, and what I hope the President meant when he employed the term, is a territory, with sufficient population to entitle her to one representative, in the act of forming a state constitution, preparatory to becoming a state. I said that such an incipient state had the right to settle the slavery question for itself, and when it settled it I would abide by the settlement, whether for me or against me. I am free to say, however, and I do say, that if by an incipient state we are to understand, as being meant, a territory without organization, or a territory with organization, but with not sufficient population to entitle her to one representative in Congress, and that such a territory has the power to settle the slavery question, or any other question of state right, or any question which does not pertain exclusively to the police of the territory, I wholly and entirely dissent from the proposition, whether it comes from the President, from my distinguished friend from Michigan, or from any other quarter.

Mr. CASS. I am not going to argue the point; I have not the slightest disposition to do so. I only desired to correct what I supposed to be a misapprehension of my honorable friend. As to the distinguished chairman of the Committee on Territories, I have already put him right; and now I will again read the words of the President—"the true principle of leaving each state and territory to regulate its own laws of labor, according to its own sense of right." I will merely observe, in addition, that if the President did not mean, that the people of a territory ought to possess this power, the language he uses is—to say the least of it—very unfortunate; and, if by the expression "incipient state,"—to which the senator refers, and which, I suppose, is intended to be descriptive of the territorial condition—is meant, as the senator suggests, the condition of one of those communities in the act of forming a state constitution, and becoming a state, it really seems to me very unnecessary to make the period of such an act—perhaps five or six months—a subject of special consideration; one of the divisions of the exercise of this power. It is not worth it.

Mr. BROWN. It may be unnecessary to make the point; but it is always right to save a principle. I can see that, in a particular contingency, the point may become very important. The principle ought to be preserved, whether it is called into practical operation or not.

There is yet another point in which this question is to be viewed. Is a territory not yet organized an incipient state? For myself, I am free to say that, in my opinion, an unorganized community does not rise to the dignity of a territory, much less to the dignity of a state of any kind. I know we used to speak of the territories of California, of Utah, and of New Mexico, before we had given them governments at all; but

that was a loose mode of expression. Is it meant that such a territory may exclude slavery?

Then, there is another state of territorial existence. It is the period that intervenes between the organization of a particular territory into a political society, and its admission into the Union as a state. For instance, we have now Minnesota, Utah, and New Mexico, organized political communities. Formerly there was the territory of Michigan. It was, I believe, seventeen years after she was organized into a territory before she was admitted into the Union.

Mr. CASS. Thirty years.

Mr. BROWN. I hold, free from all other embarrassing questions, taking Michigan as an example, that the people of that territory at no time from the passage of the act organizing them into a territory to the period when a convention assembled to form a state constitution, had the right to settle the slavery question for themselves. During the whole thirty years this right was in abeyance. That is my position. I state it frankly. If the President means to assert that the people then had this right, as an inherent or constitutional prerogative, I simply say that I dissent from his conclusion. I do not quarrel with anybody about it, but I do not believe in such doctrines.

Mr. CASS. The honorable senator puts me in a wrong position. I think the same ground was taken six or seven years ago. I never contended that the people of a territory had the right to legislate on the subject of slavery before they had a recognised government; I never dreamed of it. They have no right in such a condition to pass any laws; but, as I said in the California case, they have a right, if Congress unnecessarily delays action so that there is danger to the internal peace of the country—they have a right by the laws of God and man to form a government for themselves, and until there is a regularly organized government. They have no power to legislate upon this or upon any other subject.

Mr. BROWN. My friend from Michigan says that, up to the time when you give them a government by act of Congress, he does not contend that they have a right to interfere with slavery; but, when you give them a government, I understand him to assert they have the right. Now, from whom do they derive their right? If they get it from God Almighty, why do they not have it before they receive a government from Congress as well as afterwards? [Laughter.]

Mr. CASS. Gentlemen need not laugh so soon; I have a very simple answer to make. I have said that there is no government legally speaking until you have organized one. When you give it to them, the right of legislation attaches, and is brought into exercise. It will not do to refer to God Almighty or to any other power; the question is, what rights have they after you organize them? You organize a legislature in the territory; that legislature, then, has power of legislation. Where do they get it from? They get it through the act of Congress; but upon what subjects they shall exercise their powers of legislation, after they have organized, is a different question. I believe it is a question which we cannot control. The moment you authorize them as a legislature to legislate, they have rights. I have not contended that God Almighty gave them a right to pass laws before a government was organized; but I do contend that nature gives them rights which they can enforce if

you put them in danger of anarchy, without law or civil government. I suppose the senator will not deny, that men have certain rights, given by God, which none but tyrants can take away.

Mr. BROWN. Well, sir, I do not feel disposed to pursue this matter, as I perceive that my friend from Michigan and myself will never be able to agree upon the question.

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On the 26th of August, 1856, Mr. BROWN again addressed the Senate as follows:—

When this section was moved as an amendment to the last Kansas bill, reported from the Committee on Territories, I was one of three who voted against it. I was opposed to it then; I am opposed to it now; and mean to vote against it in any form in which it can be presented. When we passed the original Kansas act, we declared to all the world that the people of the territories had the right to make laws for themselves, subject only to the limitations of the Constitution. When we were asked what is meant by the limitations of the Constitution, and who is to determine what are those limitations, we answered on all sides that is a question to be determined by the courts. Never once by any living man was it asserted that Congress was to be the judge as to what the limitations of the Constitution were. Now, gentlemen come in and tell us that because, in their judgment, the laws of Kansas do not conform to the Constitution, we are called upon, and needs must obey the call, to overturn those laws.

Now, sir, I do not pretend to say that I would vote for such laws. I would not. I do not pretend to say that I approve of the laws as they stand. I do not approve of them. What I contend for, is simply that that is none of my business. The people of Kansas have passed those laws. If any portion of the citizens there are dissatisfied with them, they have precisely the same remedy which you and I, if we had gone to the territory, would have had if laws had been passed obnoxious to us. They have their right to appeal to the Supreme Court; and if that right is not amply secured by the present legislation of the country, I am ready to secure it in the amplest manner possible. I stand prepared to guaranty any sort of appeal which the people of Kansas, or any portion of them, may desire to prosecute. I would even go to the extent of putting these appeal cases at the head of the docket and requiring the Supreme Court to hear and determine them in advance of all other cases; but I am not willing, and will not, on my responsibility as a legislator, interpose with a declaration that these laws are unconstitutional, and that, therefore, I am not only called upon, but imperatively bound, to blot them from the statute-book. The senator from California says these laws are disgraceful to the age in which we live, and that he is ready to wipe them from the statute-book. Sir, if the Wilmot proviso had been passed, if they had laws excluding slavery from the territory, I should have regarded such laws as unconstitutional; but if I had come here and asked senators to help me to repeal such legislation, would they have done it? Would they not have told me, "according to the original bill you are remitted to the courts for your remedy; if any constitutional right of yours has been invaded, appeal to the courts; seek your remedy there, and if you obtain it, we acquiesce; if you fail, you

must submit." That measure of justice which you would mete out to me or my people, mete out to others and their people. That measure of justice which you would mete out to the South, mete out to the North, and then there will be no just ground of complaint anywhere. I ask you whether you are going to say to the Southern States, "if the legislation be against you, you must abide by it until you can have overturned it in court;" and to the people of the Northern States, "if the legislation be against your prejudices or your principles, you have but to appeal to Congress, and Congress will set the matter right for you?"

Sir, I regard this as flagrantly unjust—as one of the most unjust propositions, all things considered, that has ever been brought before this body. It is not only yielding to a wild spirit which is threatening to overturn the institutions of the country, thereby encouraging that spirit to go on to still further aggression, but it is, in my judgment, a palpable, downright, outrageous disregard of the rights of one-half of the Union.

There is but one point, in my judgment, upon which this proceeding can be justified; and that is the point taken by the Free-soil portion of this body. If they are right that this whole legislation is the work of usurpation and tyranny—if they are right in the supposition that persons thrust themselves into the territory and arbitrarily made laws under which they do not mean to live and under which they are not living,—then it is your duty to interpose and wipe all the laws from the statute-book; not only those which are obnoxious, but those which would otherwise be acceptable, upon the broad ground that it was a usurpation and a tyranny. I hold that you have no right to discriminate. One senator rises and says, "this law is obnoxious to me," and forthwith the Senate blots it out. Another rises and says, "this is obnoxious to me," and you blot that out. And when you have blotted out enough to obtain a majority of the Senate, there you stop. There are still complaining senators, still senators, representatives from states, who say "there are other laws obnoxious." Why not listen to their complaints, and wipe out those laws also?

Sir, if I believed, with the senators on the other side of the chamber, that unauthorized persons had made these laws, and now refused to live under them, I should go with the senator from Massachusetts, not only for blotting out the obnoxious portion, but all the other, and giving a new start to the government; but I believe no such thing; I have seen no evidence of it. I believe that the legislature which made those laws was as fair a legislature as ever represented so new a people anywhere. That there were irregularities in the election is true beyond all doubt. These irregularities happen in old, and well-settled, and well-organized communities. Can you expect more regularity in a territory, situated as Kansas is, than in a state? It was the legislature of the territory. Some of its members doubtlessly were irregularly chosen, but it represented the people of Kansas, and it was their only representative. It passed these laws. The next election comes off in October—only a little more than a month from to-day. If the people of Kansas are not satisfied with these laws, let them repeal them, as a dissatisfied party in a state repeals their laws. What I maintain is, that you have no right to interfere. Under your grant to the territory, it had the same right to pass laws for itself which a state had to pass laws for itself. It has the same

right to pass laws for itself which Massachusetts, or Virginia, or any other state, has to pass laws to govern people within their own limits. I dare say the gentlemen on the other side of the chamber think there are many statutes on the Virginia statute-book that are outrageous; but would you call upon the Senate to wipe them out? Would you call upon Congress to interfere? Massachusetts complained of certain legislation of South Carolina, and the imprisonment of what she chose to call her colored citizens, but she never asked Congress to repeal the act of South Carolina. Why? Because South Carolina had a right to pass outrageous laws, if she chose to do so, and govern her people by them. Congress had no business to interpose.

Now, if the principle upon which you passed your Kansas bill was the correct principle, that the people had the right to pass such laws as they chose to pass, subject only to the limitations of the Constitution; and if it was true, as you said, that the limitations of the Constitution were to be determined by the courts, and not by Congress, under what pretence do you bring this bill here, and ask for action upon it? The people have legislated; you think they have legislated erroneously; but there is no appeal but to the court to overturn their legislation.

I do not care to pursue this subject. It opens a wide field for debate. It opens up all the principles on which the territories are governed. It involves all our ideas of the powers of government. I am not going to run off into this branch of the subject. I plant myself upon the contract which we entered into in passing the original Kansas bill. Sir, the people of the territory have no right to legislate for themselves, if you exercise a supervisory control to overturn their legislation whenever you are dissatisfied with it. My venerable friend from Michigan maintained this morning, as he has always maintained, that the people have a right—I understand him to say it is a sovereign right of the people—to make laws for themselves; but when they make the laws, and they do not meet the approbation of my friend from Michigan, he throws them overboard.

Mr. CASS. I never said that.

Mr. BROWN. But you act it.

Mr. CASS. I never acted it.

Mr. BROWN. Does not my friend from Michigan admit that the people of Kansas have a right to pass laws for themselves?

Mr. CASS. I am not going to discuss this matter, as I am rather a point of attack to-day. I wish to observe, that I maintain, as I have always done, that the people of Kansas have certain inalienable rights secured by the Constitution. I maintain that, in a territory, American citizens have no right to institute a government of themselves, unless driven to it by your neglect. I maintain that, when you do institute a government, they may then go on and exercise governmental powers, which powers they do not derive from you, but from the Constitution. You give them the means to exercise them. That has been my doctrine.

Now, Mr. President, I am not going to touch the point of the honorable senator from Mississippi, but merely to vindicate myself. I believe that the people of the territory of Kansas have the right to exercise their domestic privileges, if I may so term them, for themselves, and you have no right to interfere; but I believe that if the Congress of the United States pass a law, they have the same right to see that that law

is faithfully executed which they had to pass it. Whether you derive your power from one clause of the Constitution or another to establish a territorial government, you have the same right to take care that that government is faithfully executed. Then, if the territorial legislature pass laws which are in the very face of the Constitution and in the face of your organic act, it is my opinion that Congress has a right to correct their error.

MR. BROWN. I so understood my friend. I do not think there is any difference at all between his understanding of himself and my understanding of his opinions. I am not quarrelling with him about it; but my own mind is so obtuse that it fails or refuses to perceive the difference between the position of my friend as stated by himself and as stated by me.

The people of the territory either have the right to make laws for themselves or they have not. If they have the right to do it, I maintain that you have no right to overturn their laws; because, if, whenever they run counter to your views, and make laws which you do not approve, you have the right to overturn them, that very right, it appears to me, involves the other right of making the laws for them in the beginning. If you have the right to say that their laws are either good or bad, according to your judgment, and to be maintained or not maintained, as you choose, it certainly embraces the inferior right of saying, in the beginning, what sort of laws they shall have. It would be a shorter way to tell them, in advance, "here are our notions of what laws you ought to have; take them and be content." I do not know what becomes of squatter sovereignty, popular sovereignty, and all that. When we act thus, it seems to me that all goes by the board.

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## INTERNAL IMPROVEMENTS.

SPEECH IN THE SENATE, MAY 6, 1856, ON THE SUBJECT OF INTERNAL IMPROVEMENTS BY THE GENERAL GOVERNMENT.

MR. PRESIDENT: It seems to me that we of the Democratic faith have gone sadly astray on this subject of internal improvements. We have either passed resolutions which we do not understand, or having passed them we deliberately trample them under foot. It is high time, I think, that we strike those resolutions from the book of our principles, or else resolve to adhere to them. In 1848, when our venerable friend from Michigan was made the standard-bearer of the Democratic party, we resolved against a general system of internal improvements. The Whigs in my part of the country charged precisely what we have before us in the Senate to-day. They said, "You mean to have no general system of improvement, but you mean to have it in detail." When I was appealed to I said, with that frankness which I trust has always been and always will be a part of my character, "We contemplate no such thing; we are incapable of declaring against a general system which shall bear equally in its burdens upon all parts of the country, and which shall

dispense its blessings on all parts of the country, and then go for a special system of legislation which shall benefit one section at the expense of another."

I believed then, that my party was sincere on this question, and that, in declaring against a general system, it declared against the system in the aggregate and in detail. It seems, however, that I am to learn from the Senate now a different lesson. Individual members of the party—I do not say that it is the action of the party in the aggregate—individuals representing its interests and the interests of the country here, do support these measures of special legislation. I am free to say now, as I have said at home, that, if we are to have internal improvements at all by the general government, I am for a general system—a system which shall dispense its blessings alike on every section, and the burdens of which shall be borne equally by all parts of the Union. I am opposed to sectional legislation, to class legislation, to legislation for the benefit of particular neighborhoods, states, or sections of the confederacy.

Two years ago we passed a bill distributing about \$5,000,000 of the public money among the several states for the improvement of rivers and harbors. We sent it to the President of the United States; and whatever other faults may be found with him, it stands, in my judgment, to his eternal credit that he vetoed that bill. Now, sir, what have we here? The items of that bill are taken up, one by one, and each is incorporated into a separate bill. That which he could not gulp down at one draught, he is expected to take by piecemeal. You do not propose to physic the President on the good old plan of the allopathists, but you approach him with your homeopathic doses, and you give them to him in infinitesimal parts, dividing them up as though you expected that, when he could not take the whole pill at once, he would take it at a thousand different swallows if it were divided. I do not know what he will do, but I know what he ought to do. When you send him the first of these infinitesimal parts, these homeopathic doses, he ought to treat it precisely as he did treat the whole dose, and throw it back upon you.

If we are to have these improvements made at all by the money of the federal government, I say again, let us have a system. When we declared as a great party against a general system of internal improvements, I understood that we were declaring against it in the aggregate; and as the major always includes the minor, when we declared against the greater evil, I supposed that we declared against all the little evils which lay beneath it. As a member of the Democratic party, speaking what I conceived to be its interests, maintaining what I believed to be its principles, I repelled the imputation, that while we were opposed to a general system of internal improvements we were for doing the same thing in detail.

Sir, this must stop. You must either cease to pass these bills, or strike opposition to internal improvements from the platform of your party. This kind of cheater and humbuggery on the country cannot be long tolerated. When you say that you cannot improve rivers and harbors—that it is against the principles of the party to do so, and then take up a harbor in this state, and a river somewhere else, and go on scattering your improvements all over the Union, taxing one man's constituents for the benefit of another's, you cannot expect the people to believe that you are acting fairly. Such an idea may pass current here;



but when you get out before the straight-forward, the honest-hearted, the wool-hatted, and homespun-breeched farmers of the country, they will not understand it. They will say that there is an attempt among the politicians to cheat them on this question.

Mr. PUGH. Allow me to say to my friend that he will not find "rivers and harbors" in the platform.

Mr. BROWN. "Rivers and harbors" is not there, but "a system of internal improvements" is there; and in the name of all that is righteous and just, is not this a part of that system? Why, sir, I was talking to a friend the other day on the subject of the Pacific Railroad, and he undertook to prove its constitutionality to me in a new way. He asked me, "Do you not admit that we have the right to open a wagon-road if we find it necessary for military purposes?" After some hesitation, I admitted that it was possible we might do it. "Well," said he, "if you have a right to cut down trees for that purpose, have you not a right to smooth over the service of the ground?" I thought that was reasonable. "Then," said he, "if you can smooth the surface of the ground, can you not dig it down to a level where it is a little too high in one place, and pile it up where it is a little too low in another?" It seemed to be possible that we might do it. "Now," said he, "if you come to a swampy place, can you not lay a stick of wood across it and make a causeway, so that wagons can pass over it?" "Perhaps you can," I responded. "Then, if you can do that—if you can lay down sticks of wood in swampy places—can you not lay them down in places which are not swampy; and if it be necessary, can you not put down the wood close together, two and a half feet or three feet apart, and when you get the timbers down, can you not lay iron rails across them, if that be necessary to keep them together; and when you get them down can you not run a wagon upon them, drawn by steam, just as well as a wagon drawn by horses?"

I found that he was making me admit myself clear out of court—that he was fixing down a Pacific Railroad on me, starting with a plain little wagon road for military purposes. Thus we commence in these matters. Some little scheme is started by which you improve a particular harbor, because there is a great deal of shipping there, and then you assimilate something else to that, and something else again to that. Thus you go on, deducing one conclusion from another, until you arrive at the point to which you have resolved that you would never go, violating all your principles.

Sir, we have got to sea upon this subject; we have broken our rudder; we have lost our compass; the pilot is overboard; and the ship is at the mercy of the winds and the waves. It is high time that we got to a harbor—one not made by men by appropriations from the treasury, but one made by God Almighty.

I trust that we shall have a test vote on this question. I know of no better occasion on which to have a direct, up-and-down, straight-out test vote, and see how we stand. The Democratic Convention is soon to assemble; and if we, as a party, do not mean to stand up against internal improvements by the money of the federal government, let us say so like men. I am opposed to these appropriations, and I have been from the beginning, and as an individual I expect to remain so; but I desire to know where I am to stand as a party man. I do not want to go home and be humbugging my constituents with the idea that my

party is opposed to internal improvements when it is not. If we are opposed to them let us say so, and stand by our declarations. If, as a party, we mean to give up our position, let us do it at once and be done with it. Of all parties in the world the Democratic party is the last that ought to practise humbuggery. It never has done it upon any question, and ought not to do it upon this. Let us have an open, plain, straightforward, honest course to pursue on the subject of internal improvements, as on all others. If we find that we do not agree—that it is not a sound principle, let us abandon it openly.

My constituents are opposed to these appropriations on principle. They are opposed to them on interest. They have been taught to believe that they are wrong—that they lead to monstrous abuses, to enormous corruption, and to a prodigal waste of the public money. But, sir, if we are to make these appropriations—if they are to become a part of the permanent policy of the government, let us all understand it, and let us have a fair start. If there is to be a scramble for the public treasury of the country, I want to know it; I want my state, which contributed its proportion to the national treasury, to have a fair share in the division when it comes to be divided out. In the bill which the President vetoed two years ago I believe there was a small appropriation of \$5000 to remove the bar at the mouth of the Pascagoula river. I suppose the sum was so small that my friend from Michigan, and the other members of the committee, overlooked it this year, and reported no bill for it. It is a matter of very little consequence. I presented it here at a late hour one night, because I knew that it was infinitely more meritorious than a great many appropriations in the bill.

Sir, you may talk about your harbors, but the best harbor on your Atlantic and Gulf coast is in the state of Mississippi, where you have from seventeen and a half to nineteen feet of water—where there has never been a dredging machine placed—where there has never been one sixpence of money appropriated for the purposes of improvement. That is a harbor in which the whole British fleet in the war of 1812 and 1815 rode with safety during the winter preceding the battle of the 8th of January, 1815. We have asked for no money from the national treasury to improve it. We have been standing on the principle of opposition to these appropriations. We have failed to build up a city there; our commerce has languished; our agriculture to some extent has languished, simply because we opposed these measures on principle, even to our own disadvantage. If this opposition is to be abandoned, I desire to have the harbors in my state improved.

We have rivers penetrating the state which are not improved. Our agriculture languishes in consequence. We have not asked for your bounty to improve them, because we understood that that party with which my state has always acted was opposed to it; but if you are going to depart from your principle, if you are going to abandon it, let us understand you, so that all of us may have an equal and a fair chance. I shall want an appropriation to improve the harbor at Cat Island and at Pascagoula. I shall want to improve the navigation of the magnificent Pearl, of the Yazoo, and of other rivers penetrating my state. I have asked for no such appropriations, because I have been standing on a principle. If, however, we are simply opposed to a general system of internal improvements, and can make any amount of them in detail,

I shall bring in my part of the detail. If we can improve this harbor and that, this river and that, in other states, I shall expect you to vote appropriations to improve harbors and rivers in my state; but I desire to know where we stand?

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On the 30th of July, 1856, Mr. BROWN again spoke on the same subject as follows:—

Mr. President, I have taken very little part in the discussion of these bills, contenting myself, as regularly as they came up, with recording myself against them; but, since the discussion has taken the turn it has within the last few minutes, I feel not only justified, but to some extent called upon, to express my concurrence, to a very great extent, in the views so ably expressed by the honorable senator from Georgia.

I do believe (and what I believe I am not afraid to say in the Senate or anywhere else) that these appropriations have a corrupting tendency on the politics of the country. I do not mean to say, nor did I understand the senator from Georgia as saying, that they corrupt individual senators; but upon what principle do all these appropriations proceed? If Michigan gets no more than she pays into the treasury, why does she seek these appropriations at all? If she pays in \$300,000 and only gets \$300,000 back, why does she ask for it? If no other state gets back any more than she contributes to the national treasury, if there were no inequality in these appropriations, I undertake to say they would not be sought for.

Mr. PUGH. Does the senator from Mississippi pretend that the appropriation made to the state of Ohio equals her taxation? Does he pretend it?

Mr. BROWN. I pretend to say that, in all the amounts which have been appropriated by these several bills, not one solitary sixpence has been appropriated for the great agricultural state of Mississippi. Why? Because, with our notions of our constitutional obligation, we could not ask for it, and the committee say they cannot give it to us. You tax us without our asking to be taxed. You levy duties and get the money into the treasury without our consent, and even against our protestations; but when you come to paying it out, you take it all to yourselves, and say you cannot give us any because we do not ask for it. If our will is to be consulted in appropriating the money, I beg gentlemen to consider our will when they come to raising the money. If you cannot make appropriations for us until we ask for them, do not lay tribute upon us until we ask it.

Mr. President, if it were possible to distribute this money among the states, in the exact proportion in which it is paid into the treasury of the nation, not a solitary one of these bills would pass; there would cease to be an effort to pass them through Congress. They are urged upon us because more is obtained than is contributed—because it is a tribute levied upon the labor and wealth of one part of the country for the benefit of the other, and, I think, no more worthy parts of the country. Now, sir, we have harbors in our state; we have rivers in our state. For certain improvements upon the southern coast of the state which I have the honor to represent, items were inserted in the general bill which was vetoed by the President; and, when members of the com-

mittee were searching out the various items for the lake shores, it could not have escaped their attention that there were items there for the benefit of the shores of Mississippi—one item for the improvement of the mouth of the Pascagoula river—a river I dare say quite as important to the commerce of the country as many of those little points on the northern lakes; yet it was entirely overlooked. Then there was the proposition to purchase a pass lying between New Orleans and Mobile, which, in my opinion, was more constitutional than any other item in the bill; and why? The government pays annually \$10,000 for the privilege of running its mail-boats through that pass. It is a pass belonging to a private person—his individual property; and the government has to use it; private commercial men have to use it; all the shipping that passes between those two important southern commercial points goes through that pass, or else outside the island, where vessels of a smaller class, especially steamers, are exceedingly insecure. For the privilege of going through them, I repeat again, the government pays \$10,000 annually. As incidental to the post office power, I think the appropriation might be made. The committee seem not to have thought so. They have reported no item—no bill for it; but have overlooked the matter entirely. Why? The senator from Michigan [Mr. Stuart] says, and other members of the committee say, because the members from Mississippi did not ask for it. Too much respect, I beg leave to say, is given to our constitutional scruples when you come to appropriate money, and too little when you come to levy taxes.

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## THE SLAVERY QUESTION.

SPEECH DELIVERED IN THE SENATE OF THE UNITED STATES,  
DECEMBER 22, 1856.

The Senate having under consideration the motion of Mr. Rusk to refer so much of the President's message as relates to foreign affairs to the Committee on Foreign Relations—Mr. Brown said:—

MR. PRESIDENT: When the President's message came into the Senate, and was read by the secretary, the first proceeding that followed was the rising of the senator from New Hampshire [Mr. Hale] to make a violent attack on the President and on the sentiments of his message. He based that attack chiefly on the ground that the President had intimated a purpose in certain quarters to attack slavery in the states. This speech of the senator from New Hampshire was quickly followed by speeches of a similar character from the senator from New York [Mr. Seward], and others on that side of the chamber who sympathize with them. These assaults have fallen here as they will fall elsewhere—harmless shafts. They have inflicted no injury on the President, and they will inflict none on the great cause which he so manfully defended.

While assailing the President in coarse and unseemly phrase, these gentlemen have not failed to cover their own positions. In all they have said, from the hour that the message was read to this, the most

casual observer will not have failed to perceive that, on some account, their tactics have been changed. The bold and defiant air of the conquering hero has given place to the subdued manner of defeated soldiers. Senators now read us long speeches, indignantly denying what I had supposed, up to within the last few days, was an admitted proposition everywhere, to wit: that when the proper time came, slavery was to be assaulted in the states. There seems, however, to have been a falling back from this position; why, I certainly do not know, but I have a strong suspicion that gentlemen have found themselves, even at the north, in advance of public sentiment, and it has been found prudent at least to fall back on more tenable ground.

While we have witnessed this exhibition in the Senate, elsewhere an exhibition not less remarkable has been going on. Politicians who certainly express no open sympathy with these gentlemen, seem to have been advancing from a position which they occupied heretofore, and taking one in closer proximity to the gentlemen on the other side of the chamber. My reading of these counter-movements, the falling back of the one party and the advancing of the other, is this: that they mean for the time being to camp in sight of each other, and during the next four years to make forays on joint account against the National Democracy; and when the presidential contest of 1860 comes on, they will go into battle under the same leader, and fight under banners so nearly alike that a soldier belonging under one being found fighting under the other, will subject himself to no charge of desertion.

I was not prepared at first for the indignant denials which we have heard from the other side of the chamber, that there was a purpose to assail slavery in the states. I was not, because at first I did not understand this change of tactics; I had supposed that gentlemen were more than half inclined to have it known that such an attack was in contemplation, and that at the proper time their purposes would be made manifest. I knew very well it had been quite the custom at all times when these purposes were directly charged on gentlemen, for them to throw them aside with a sort of "Oh no—no we don't—no such thing." But the burning indignation which has been lately manifested has struck me with surprise. My surprise was manifested in the beginning of this debate. I ventured to quote from memory certain passages from the speeches of gentlemen, manifesting as I then thought, and still think, purposes altogether different from those avowed in this debate. I spoke from memory alone; but since then I have given more critical attention to the recorded speeches of gentlemen, and can now speak with more accuracy, and with greater confidence. I do not mean to say that senators deliberately disavow their real sentiments—that would violate the decorum of this body. But I will say that if they have never contemplated an attack on slavery in the states, they have been singularly unfortunate in the use of language. I intend to-day to call particular attention to certain expressions heretofore used by them in the discussion of this question.

But before I do so, let me set not only myself right, but let me set those right for whom I speak. I recur very briefly to a speech delivered by myself on the 30th of January, 1850, and shall read two or three short sentences from that speech. The party with whom I acted at that day, like the party with whom I act now, had been accused of a

direct and deliberate purpose to bring about such a state of public affairs as must necessarily result in a dissolution of the Union. Denying that charge, speaking for myself, speaking for those who acted with me, speaking, as I then believed, and as I now believe, for the great mass of the southern people, I used this language:—

“I repeat, we deprecate disunion. Devoted to the Constitution—reverencing the Union—holding in sacred remembrance the names, the deeds, and the glories of our common and illustrious ancestry—there is no ordinary ill to which we would not bow sooner than dissolve the political association of these states. If there was any point short of absolute ruin to ourselves and desolation to our country, at which these aggressive measures would certainly stop, we would say at once, go to that point and give us peace.”

So I say to-day, sir. Speaking for myself and for those in whose name I am authorized to speak, I declare before the Senate and the world, that this Union has nowhere more devoted friends than they and I. And when I have spoken for those for whom I am authorized by election to speak, I feel that I may safely go further and say that nineteen-twentieths of the whole people of the Southern States agree with us. Point out any spot short of absolute ruin to ourselves, and desolation to our section of the country, and give us the guarantee that when you have gone to that point, these aggressive and perplexing measures, legislative and others, shall certainly cease, and we will say to you at once, go to that point. But, sir, I went on that occasion, as I do now, a step further; I said:—

“Does any man desire to know at what time, and for what cause, I would dissolve the Union? I will tell him. At the first moment after you consummate your first act of aggression upon slave property, I would declare the Union dissolved; and for this reason: such an act, perpetrated after the warning we have given you, would evince a settled purpose to interpose your authority in the management of our domestic affairs, thus degrading us from our rightful position as equals to a state of dependence and subordination. Do not mistake me; I do not say that such an act would, *per se*, justify disunion; I do not say that our exclusion from the territories would alone justify it; I do not say that the destruction of the slave trade in the District of Columbia, nor even its abolition here, nor yet the prohibition of the slave trade among the states, would justify it. It may be that not one, nor two, nor all of these combined, would justify disunion. These are but the initiative steps—they lead you on to the mastery over us, and you shall not take these steps.”

I meant then, Mr. President, to say what I say now, that no man in the South has ever taken the ground that the mere act of our exclusion from the territories would dissolve the Union, if that could be the end of agitation. No southern man has ever taken the ground, and no one takes it now, that the abolition of slavery in this district might not be submitted to, if that was to be the end. But we have looked, and are looking for the day, and have a right, in consequence of the declarations constantly emanating from high quarters, to anticipate the hour when the whole northern free-soil phalanx will be turned loose in one mighty assault upon slavery in the states. I have taught my people, as I would teach them to-day, to prepare for this assault. Defend the outposts. Yield not an inch of ground. It is better to die defending the door-sill than admit the enemy and then see the hearth-stone bathed in blood.

On the occasion to which I have referred, I drew a picture of what must be our condition if these schemes of emancipation should ever be carried out. Then, as now, gentlemen denied that there was any inten-

tion to interfere with slavery in the states ; then, as now, we had assurances of fraternal feelings on the part of our northern brothers. I replied then as I do now :—

" You tell us, sir, there is no intention of pushing us to extremities like these. I do not doubt the sincerity of gentlemen who make this avowal. If there was fixedness in their positions, I would believe them—I would trust them. If members of Congress were to the political, what stars are to the planetary system, I would take their solemn, and, I hope, sincere declarations, and be satisfied. I should feel secure. But a few days, a brief space, and you will pass away, and your places will be filled by men more hostile than you, as you are more hostile than your predecessors, and the next who come after your successors will be more hostile than they."

I then thought, as we all know now, that the abolition sentiment at the North was fearfully on the increase ; that, bursting the fetters that bound it to a handful of despised fanatics, it was invading all ranks of society, and taking captive thousands and hundreds of thousands who a few years ago spurned it as a viper and shunned it as they would a pestilence. What have we not seen and heard ? Within the last few days we have heard sentiments avowed on this floor which, a few years ago, would have found no sponsor anywhere outside of an abolition convention. Now they are responded to by a large minority here, and by a much larger minority, if not indeed a majority, in the other house of Congress. We cannot close our eyes to the light that is before us. We have seen this party rise from a little, despised band, and grow stronger and stronger, until it marches in triumph through twelve northern states, and is defeated in the remaining four by a vote so close as to make our victory over it almost a defeat. Was I not right, then, in refusing to take the promises of these men ? Where are the men of that day ? Gone, sir, gone. Go to the other house, and you will find their places filled by the men whose coming I predicted five years ago.

Mr. President, it is not my purpose to charge senators with falsehood, and certainly I shall not assume the privilege of counselling those opposed to me ; but there can be no harm in my saying to the free-soil portion of the Senate, your supporters at home do not believe you are sincere in declaring your opposition to any interference with slavery in the states. They know that, without such interference, there will never be one bondman less ; and whenever you convince them that you are sincere, they will turn you out, and send others here more hostile to slavery than you, as you are more hostile than those who went before you. And, to tell the truth, I think they will serve you right in turning you out. If you did not mean to attack slavery in the states, you ought not to have taught others to believe you did ; and this you did, as I shall now proceed to show.

I take the first in age among you, as he is certainly first in talent and position, the senator from New York [Mr. Seward]. When the other day I had occasion to quote by memory from a very remarkable speech of that senator, he did not deny the accuracy of my quotation, but, as senators will recollect, he referred me to Redfield's edition of his speeches, and avowed his willingness to abide by anything found in those volumes. I called at the library and failed to obtain the books. Communicating that fact to the senator, I do him the justice in this public manner to say that he was so kind as to present me with a copy of his speeches, a volume of which I now hold in my hand. Unlike my

friend from Tennessee [Mr. Jones], I mean to take these volumes home. I mean to show my constituents, from an authorized edition of the senator's speeches, how much of venom against them and their institutions he has managed to compress within the narrow limits of a little volume like this, and if the Senate will indulge me, I will give a specimen now, not only for the edification of the Senate, but for the information of all independent outsiders. In a speech delivered by the senator from New York, at Cleveland in 1848, he used this language, (I read from the third volume of Redfield's edition of the speeches of WILLIAM H. SEWARD):—

“‘What then!’ you say, ‘can nothing be done for freedom, because the public conscience is inert? Yes, much can be done—everything can be done. Slavery can be limited to its present bounds; it can be ameliorated; *it can be, and must be, abolished*; and you and I can and must do it. The task is as simple and easy as its consummation will be beneficent and its rewards glorious.’”

Sir, I asked the senator the other day, speaking from memory, as I ask him now, speaking from an authorized edition of his speeches, what did he mean by that language? When addressing himself to a northern audience, he said “slavery can and must be abolished, and you and I can and must do it!” What did he mean, if he did not contemplate an attack upon slavery in the states? Was it to be done by the concurrence of the Southern States, as the senator would now persuade us he means to have it done if it shall be done at all? If so, why did not the senator so declare it at the time? Why, addressing an audience hostile to slavery, and whom he was persuading to become still more hostile, did he say “slavery can and must be abolished, and you and I can and must do it?” Did the senator anticipate the concurrence of the South? Then why no allusion to the South? Did he anticipate that the South was to do the work unaided by the North? Then why appeal to the North? But I go on with his speech:—

“Wherein do the strength and security of slavery lie? You answer that they lie in the Constitution of the United States, and the constitution and laws of all slave-holding states. Not at all. They lie in the erroneous sentiment of the American people. CONSTITUTIONS AND LAWS CAN NO MORE RISE ABOVE THE VIRTUE OF THE PEOPLE *than the limpid stream can climb above its native spring*. Inculcate, then, the love of FREEDOM and the equal rights of man under the *paternal roof*; see to it that they are taught in the *schools* and in the *churches*; reform your own code; EXTEND A CORDIAL WELCOME TO THE FUGITIVE WHO LAYS HIS WEARY LIMBS AT YOUR DOOR, and defend him as you would your *paternal gods*; correct your own error, that slavery has any constitutional guarantee which may not be released, and ought not to be relinquished.”

Here we have it, sir. The senator from New York meditates no attack on slavery in the states. Oh, no—not he! He only desires the northern people to understand how much they are at liberty to hate slavery. Their indignation need not be restrained by any vulgar fancy that slavery is protected by the Constitution or the laws, either state or national. Their virtue can rise above the Constitution and the laws. The way is pointed out: inculcate the love of *freedom*—that is, hostility to slavery—under the paternal roof. Yes, teach your children to lip with their earliest breath anathemas against the South. Teach it in the schools. Let the schoolmaster understand that he has a higher duty to perform than merely to educate his pupils. He may teach them to read and write, instruct them in geography, and point them to the great



moral laws that govern the universe, and yet there is a higher duty for him to perform; he must teach them to hate slavery, so that when they are grown up men and women, the Constitution and laws shall not rise above their virtue. The servant of God, as he ascends the sacred desk, is told by the senator from New York to preach, not Christ and him crucified, but freedom—freedom to all mankind, and freedom especially to the poor down-trodden slave. And yet the senator has no purpose now, or at any time to come, to attack slavery in the states. Then why this teaching? Why teach children under the paternal roof to hate slavery? Why teach it in the schools and in the churches? Why reverse the scriptural admonition to love your neighbors as yourselves, and thus teach all mankind to hate the South and despise its people? If there is no purpose to interfere with the South, its people, or its institutions, to what end does the senator direct all this advice?

Mr. President, the senator gives us the key to his motive. He says, on page 302 of the volume in my hand, "Whenever"—yes, sir, mark it well—"whenever the public mind shall will the abolition of slavery, the way will open for it." There it is, sir—whenever the public mind shall will the abolition of slavery; and then he says, in plain Saxon: "Prepare the public mind under the paternal roof—prepare it in the schools and in the churches—when it is ready the way will open for it." But the senator has no purpose to interfere with slavery in the states—good, easy man!—he only wants to prove that the Constitution and laws cannot rise above the virtue of the people. Mr. President, I give the senator credit for all the talents he possesses, but he has no right to assume that all the rest of mankind are fools.

"Say to slavery," says the senator, "when it shows its bond and demands the pound of flesh, that if it draws one drop of blood its life shall pay the forfeit." What does that mean? What is the bond here alluded to but the Federal Constitution? When the master comes with that Constitution in one hand, and the laws enacted in pursuance of it in the other, and demands the return of his fugitive slave, who perchance has taken shelter under the very roof of the senator from New York, that senator says, like Shylock's judge, "Yes, I award you the return of the slave; but I impose conditions—such conditions as must for ever render my judgment inoperative and void. You have a right, under the Constitution, to your slave; the law doth give it, and I award it; take your pound of flesh, but spill not one drop of blood; take your slave, but be cautious that you touch not even the hem of the garments of freedom; for if you do, your life shall pay the forfeit." Such, sir, are the teachings of the senator; such his ethics; such that moral law of the people over which the Constitution can no more climb than the stream can rise above its native spring!

But again: "Extend a cordial welcome to the fugitive who lays his weary limbs at your door, and defend him as you would your paternal gods." True, the Constitution declares that fugitives shall be delivered up; but I tell you, says the senator, that "slavery has no constitutional guarantee that may not be released." Disobey the Constitution; give a cordial welcome to the fugitive; defend him as you would your paternal gods; strike down the master, and set the bondman free. The Constitution may sanction slavery—the Bible may tolerate it—God may have ordained it; but what of all that? We must have a higher law.

If it shall be shown that the Constitution sanctions slavery, we will demand an anti-slavery Constitution; if the Bible tolerates slavery, we will demand an anti-slavery Bible; let it be proven that God ordains slavery, and we will shriek for an anti-slavery God. Thus is the Constitution denounced, the Bible derided, and God insulted on his throne by men who impiously endeavor to prove what the Constitution, the Bible, and God himself deny—that a negro is the white man's equal. But there is no intention to interfere with slavery in the states. We mean to abolish it; we mean to teach abolition in the schools and in the churches, and under the paternal roof; we must defend runaway negroes as we would our paternal gods; we must correct our error that the Constitution gives any protection to slavery which we may not release; and above all, we must teach the people that their virtue is not to be overcome by the Constitution; only let their minds be prepared for abolition, and the way will open. But we must not interfere with slavery in the states. Will the senator tell us what slavery it is he means to abolish, if it is not slavery in the states? Does he know of any slavery anywhere else but in the states?

We have had intimations that the enemies of domestic slavery expect their final triumph through the action of the Southern States—that by a sort of “moral suasion” the owners of slaves will be induced finally to give them up. On this precise point I shall have something to say presently. Before I proceed to that point, however, let me make a passing allusion to the higher law doctrine of the senator from New York. From the first volume of Redfield's authorized edition of the senator's speeches I read the following:—

“We hold no arbitrary authority over anything, whether acquired lawfully or seized by usurpation. The Constitution regulates our stewardship; the Constitution devotes the domain to union, to justice, to defence, to welfare, and to liberty. But THERE IS A HIGHER LAW THAN THE CONSTITUTION which regulates our authority over the domain.”

A higher law! The senator, by universal admission, has the honor, if it be an honor, of having first taught in the political schools of our country this doctrine of a higher law. I want to show how apt some of his scholars are. Some of the pupils of the distinguished senator from New York assembled in convention in the state of Ohio for the purpose of nominating a candidate for governor, and resolved as follows:—

“Resolved, That we cannot *respect*, nor can we *confide* in, those ‘lower law’ doctors of divinity who hold *human laws above* the laws of God; nor can we concur in their teachings, that the *Divine law* is subject to *congressional compromise*.

“Resolved, That we hereby give it to be distinctly understood by this nation and the world that, as abolitionists, considering that the strength of our cause lies in its righteousness, and our hopes for it in our conformity to the laws of God, and our support for the rights of man, we owe to the *Sovereign Ruler of the universe*, as a proof of our allegiance to him in all our civil relations and officers, whether as friends, citizens, or as public functionaries, sworn to *support the Constitution of the United States*, to regard and treat the third clause of the instrument, whenever applied in the case of a *FUGITIVE SLAVE*, AS UTTERLY NULL AND VOID, and consequently as forming no part of the Constitution of the United States, whenever we are called upon or sworn to support it.”

There is the result of the senator's teachings. He uses the influence of his great name and his high position to declare, before the Senate and to the world, that there is a law higher than the Constitution. His pupils, taking up the doctrine, declare that, when they are sworn to sup-

port the Constitution, they are at liberty to treat as null and void that clause which requires the return of a fugitive slave. Whether the pupils understand precisely as the instructor intended to teach, it is not my business to determine. That is a duty which devolves on the senator himself. It is sufficient for me to know that he has taught them to believe there is a law higher than the Constitution, and that they, following his teachings, repudiate the Constitution, and spurn the obligations of the oath that binds them to support it. One set of his admiring friends march right home to victory by planting their feet on the neck of the Constitution, and another part cry out for an anti-slavery Constitution, anti-slavery Bible, and anti-slavery God.

But, sir, I have other speeches not contained in an authorized edition of the senator's works, but I suppose from the title page not less entitled to credit. I read from a pamphlet entitled "The Dangers of Extending Slavery, and the Contest and the Crisis; two speeches of William H. Seward, published by the Republican Association: the tenth English edition; Buell & Blanchard, printers, Washington, D. C." The speeches must have been published in very small editions, or have received great favor in certain quarters. Now, I beg to call attention to a few passages from the speech delivered at Albany, October 12, 1855.

I do so for several reasons, and, among them, for this reason: I want to show how little was thought of the idea of moral suasion, of abolishing slavery through the consent of the masters, when this speech was made. This idea of moral suasion—of bringing up the owners of slaves to the great work of emancipation—was not thought of when this speech was delivered. The senator is too well acquainted with the springs of human action to suppose that he could ever induce slaveholders to adopt his ideas by language such as I shall now read:—

"All agree that in every case, and throughout all hazards, aristocracy must be abhorred and avoided, and republican institutions must be defended and preserved.

"Think it not strange or extravagant when I say that an aristocracy has already arisen here, and that it is already undermining the republic. An aristocracy could not arise in any country where there was no *privileged class*, and no special foundation on which such a class could permanently stand. On the contrary, every state, however republican its constitution may be, is sure to become an aristocracy, sooner or later, if it has a *privileged class* standing firmly on an enduring special foundation; and if that class is continually growing stronger and stronger, and the unprivileged classes are continually growing weaker and weaker.

"A privileged class has existed in this country from an early period of its settlement. *Slaveholders constitute that class*. They have special foundation on which to stand—namely, *personal dominion over slaves*."

Was it by language such as this that the senator hoped to bring the slaveholders to the point of joining in his great scheme of emancipation? Was there ever an attack more insidious, or one better calculated to bring the slaveholder into discredit? A little further on the senator exclaims: "Oh, how blessed a thing it is for brethren to dwell together in unity!" He comes to bury Cæsar, not to praise him. While he speaks of his brethren of the South, he teaches others to regard them as enemies. He says they are the enemies of liberty, already engaged in undermining the republic.

The senator's audience, on the occasion referred to, were told plainly that the slaveholders of the South constituted a privileged class—an aristocracy—and that an aristocracy was dangerous to the existence of

the republic. Why did he thus teach, unless he meant to bring this privileged class into reproach? If there be in the South a privileged class—an aristocracy, in the language of the senator—and that aristocracy is dangerous to the existence of the republic, does the senator propose no remedy? Does he mean simply to complain of the existence of the evil, without attempting, in any capacity whatever, to remedy that evil? He goes on:—

“The spirit of the revolutionary age was adverse to that privileged class. America and Europe were firmly engaged then in prosecuting what was expected to be a speedy, complete, and *universal abolition of African slavery.*”

Here, again, the universal abolition of African slavery is spoken of as an act necessary to place the government in harmony with the spirit of the revolutionary age. Still there was no design to interfere with slavery in the states. The great scheme of *universal abolition* was to be carried out through the influence of moral suasion, and that influence was to be effectually exerted by calling the slaveholders a privileged class, an aristocracy whose special privileges were dangerous to the republic, and the liberties of the people.

“O shame! where is thy blush?”

See how the senator lays down one proposition after another, dovetailing each into its predecessor in a manner to draw the public mind to a particular conclusion, that conclusion being that by all the memories of their revolutionary sires, by all their hopes of preserving republicanism in this country, they are called upon to wage a ceaseless, unrelenting, and never-dying warfare on slavery wherever it exists; and yet the senator comes here to-day and says: “No; I indignantly repudiate the idea that either I or my friends ever dreamed of assailing slavery in the states.” After going on through a long argument, which I have no time to read, nor the Senate patience to hear, the senator says; I read again from the Albany speech:—

“I will only ask, in concluding this humiliating rehearsal, whether there is not in this favored country a privileged class; whether it does not stand on an enduring foundation; whether it is not growing stronger and stronger, while the unprivileged class grows weaker and weaker; whether its further growth and extent would not be, not merely detrimental, but dangerous; and whether there is any hope to arrest that growth and extension hereafter, if the attempt shall not be made now?”

“The change that has become at last so necessary is as easy to be made as it is necessary. *The whole number of slaveholders is only three hundred and fifty thousand*—one hundredth part of the entire population of the country. If you add their parents, children, immediate relatives, and dependants, they are two millions—one-fifteenth part of the American people.”

What, sir, is the object—the purpose of the senator in making these declarations? Why does he proclaim that this privileged class in the South is dangerous to republican institutions—that it exists there in violation of the great principle for which the revolutionary battles were fought, and that those who uphold it are only three hundred and fifty thousand? For what purpose, let me ask you, did the senator from New York present the case in this form to the mind of his audience at Albany? That senator never speaks without a purpose. He does not explain; and if he will not, I needs must be left to the resources of my own mind for an answer.

The senator knew that no chord in the heart of our people was so

easily touched, or responded so promptly, as that one which binds it to the memories of the Revolution, and he rightly concluded that our people everywhere, north and south, were deeply imbued with republican sentiments. If, then, he could persuade them that there was a little handful of three hundred and fifty thousand slaveholders at the South, warring against the great principles established in our Revolution, and breaking down republican institutions in the country, why, then, the twenty-five millions who do not belong to this privileged class—to this aristocracy—would rise up, and WILL the abolition of slavery; and then, in his own language, there being “a WILL, *the way would open for it.*”

It is not my business to explore the recesses of any man's heart; but I apprehend the object of the senator in making the speech to which I have alluded, was to persuade the mighty North that it ought to *will* the abolition of slavery. He told them of its dangerous tendencies. He pointed to the feeble prop by which it is sustained. It is upheld, said he, by only three hundred and fifty thousand slaveholders; and you who are not slaveholders are more than twenty-five millions of people; only have the will to overthrow this great monstrosity, and the way will immediately open to you! Such, if not the language, is at least the teaching of the senator from New York; and yet he comes to the Senate to-day to tell us he never contemplated, never counselled, and never believed anybody else contemplated, or counselled, an attack on slavery in the states!

But, Mr. President, there is a deeper meaning—a larger significance to this speech of the senator. There are three hundred and fifty thousand slaveholding aristocrats in the South, says the senator—men at war with liberty, and dangerous to the republic. They are only one in one hundred of the entire population; or if you add, he says, “the children, relatives, and dependants, they are one in fifteen;” consequently fourteen parts out of every fifteen of the entire population have no interest in slavery. They are, as he seems to conclude, mere hewers of wood and drawers of water to the slaveholding aristocrats.

These suggestions come from no friendly spirit, Mr. President. They open a wild field for speculation; and if I did not feel there was a necessity for my being brief, I would ask the senator to join me in a ramble through that field. To him it is not a field of treasures, as he supposes. If he expects, by appeals like these, to turn the hearts of the non-slaveholders of the South against slavery, he will miss his aim. They may have no pecuniary interest in slavery, but they have a social interest at stake that is worth more to them than all the wealth of all the Indies. Suppose the senator shall succeed in his ideas of universal abolition—what is to be the social condition of the races in the South? Can they live together in peace? No one pretends to think they can. Will the white man be allowed to maintain his superiority there? Let us examine this proposition. There are in my state about three hundred and fifty thousand whites, and about an equal number of blacks. Suppose the negroes were all set free. What would be the immediate and necessary consequence? A struggle for the supremacy would instantly ensue. White immigration to the state would cease of course. The whites already there would have but little motive to struggle in the maintenance of the unequal contest between the blacks and their millions of sympathizing friends in the free states. The consequence would be that

the men of fortune would gather up their transferable property, and seek a home in some other country. The poor men—those of little means—the very men on whom the senator relies to aid him in carrying out his great scheme of emancipation, would alone be compelled to remain: their poverty, and not their will, would compel them to remain. In the course of a few years, with no one going to the state, and thousands on thousands leaving it in one constant stream, the present equilibrium between the races would be lost. In a few years, the disparity would probably be some three, four, or five to one in favor of the blacks. In this state of things, it is not difficult to see what would be the white man's condition. If he should be allowed to maintain his equality he might think himself fortunate; superiority would be a thing not to be dreamed of. The negroes being vastly in the majority, would probably claim the ascendancy in the social, and in all other circles. If the white man, reduced to such a condition, were allowed to marry his sons to negro wives, or his daughters to negro husbands, he might bless his stars. If the senator from New York expects the aid of non-slaveholders in the South in bringing about this state of social relations, let me tell him he is greatly mistaken. If I had to take my choice to-day between an army of large slaveholders and an army of non-slaveholders to defend the institutions of the South, I would take the latter. The first would fight to defend their property, the last to maintain their social superiority; the one would see an outlet after defeat, the other would see themselves degraded below the level of the negroes, their sons married to negro wives, and their daughters consigned to the embraces of negro husbands. I tell the senator that his philosophy has failed—his fine-spun theories will all explode, when submitted to the test of the plain, common sense of the non-slaveholding population of the Southern States.

The senator from Massachusetts [Mr. Wilson] was equally particular with the senator from New York, to assure us that he contemplated no attack on slavery in the states. Indeed he became somewhat indignant at the idea that any one should intimate that he had ever contemplated any such thing. I have no authorized edition of the senator's speeches; and if I read him incorrectly, he is present, I am glad to see, and will no doubt correct me. The senator knows what the Anti-slavery party mean to do—I mean the Garrison and Wendell Phillips party. Did the senator from Massachusetts use this language:—

*"The Anti-slavery party alone is too weak. They are few in numbers, though their policy, I believe, will yet be impressed upon the country, but the time is not yet."*

The senator, I repeat, knows who the Anti-slavery party are, and he knows their purposes. Did he use that language? If he did, the inference is irresistible that he believed in the soundness of the Anti-slavery theories, and was ready to embrace them at the right time. If he did not so believe, and was not so ready, why did he declare, "but the time is not yet?"

MR. WILSON. Will the senator allow me to make an explanation?

MR. BROWN. Certainly.

MR. WILSON. I beg leave to assure the senator from Mississippi that the object of my making that statement was not to refer to the Garrison abolitionists as the Anti-slavery men, or the radical or Gerrit Smith abolitionists; but to speak of the Anti-slavery men of the country, whose

sentiments were embodied in the Buffalo platform of 1848, and the Pittsburgh platform of 1852. The doctrines of the Free-soil party were the doctrines to which I referred. I said that those who agreed in those platforms were in a small minority. I believed the sentiments embodied in those platforms were correct, and would yet be impressed on the country. Nothing in those platforms contemplates any action by the Congress of the United States, or any interference whatever with slavery in the slaveholding states in the Union. I never entertained the thought that we had that power, and I never proposed to usurp or exercise it.

Mr. BROWN. Mr. President, the senator admits that he used the language, but avoids its force by saying, in effect, that it was addressed to parties other than those I have named. The language was addressed to some one who was in advance of the senator; and whether it was Garrison or Gerrit Smith, or some one of less ultra views, makes but little difference. It is the language of entreaty, addressed to some one imploring him not to go so fast. He says, Your sentiments are all right, but the time has not come for impressing them on the country. I submit to the Senate how far any party must have gone when the senator from Massachusetts had to call on them to stop; and I submit to the senator himself, whether he did not contemplate an advance movement when he said, "the time is not yet."

The senator will pardon me if I say these are significant declarations; and when coupled with remarks such as those I have quoted from the speeches of his friend from New York, they become too potential to be passed by in silence.

Mr. SEWARD. Mr. President, I am interested very much in this argument of the honorable senator, and I think it is a very fair and senatorial mode of proceeding. I have not the least objection whatever to his analysis of the arguments and speeches which I have made. It is not my purpose to answer; but I know the honorable senator is proceeding in a manner which indicates what I might expect from him, fairness. I beg leave to say now, rather than at some other time in the debate, that I appeal to him, in the revision of his remarks, not to overstate, as I think he has erroneously done, disclaimers and denials which he assumes I have made here in this debate. On referring to the few remarks which I addressed to the Senate, on the first day that this question arose, he will see the precise extent to which I did go; and I would not have him present me to the people of the country as denying or disclaiming anything more than I have actually done, and I know he does not wish it. I hope the honorable senator will excuse me for interrupting him on this particular point, as I have no wish to interfere with his argument.

Mr. BROWN. Certainly; I do not wish, at this particular point, to review what I have said in regard to the senator from New York, my present dealing being with the senator from Massachusetts. I turn over to another production of the honorable senator. When I stated the other day that there had been a sort of billing and cooing, a sort of caressing, a sort of old-fashioned courtship, between certain gentlemen here and the ultra-Abolition party, the senator and his friends came forward and very indignantly denied it. Denials have come upon us thick and fast from that day to this, not only through the senators, but through their newspaper journals all over the country. I have had a perfect shower

of newspapers rained on me from every part of the country, all indignantly denying that I was at all right in assuming that there was any sort of attempt to get up a political marriage between the Abolitionists of the Garrison and Wendell Phillips school and the Black Republican party. I ask the senator from Massachusetts whether he did not, on the 20th of June, 1855, address this letter to Wendell Phillips? I need not say to the Senate who Wendell Phillips is. It is sufficient to say that he "out-Herods Herod," he "out-Garrisons Garrison," he "out-Parkers Parker." He goes further than the renowned Beecher himself. This I understand to be the letter of the senator:—

"I hope, my dear sir, that we shall all strive to *unite and combine all the friends of freedom*; that we shall forget *each other's faults and shortcomings* in the past; and all labor to secure that co-operation by which alone **THE SLAVE IS TO BE EMANCIPATED, and the domination of his master broken.** Let us remember that more than *three millions of bondmen*, groaning under nameless woes, demand that we shall cease to reproach each other, and that we labor for their **DELIVERANCE.**"

Did the senator write that letter?

MR. WILSON. Will the senator allow me a word on that subject? He has put a categorical question. I am ready to answer the question; but I would like to put my own construction on that letter.

MR. BROWN. Any construction the senator pleases. I cannot say that I will adopt his construction, but I will hear it.

MR. WILSON. Well, Mr. President, I received an invitation from Wendell Phillips to attend a meeting, and to address that meeting. I wrote that letter.

MR. BROWN. So I thought.

MR. WILSON. I agree to every word of it now, as I did then; and there is nothing in that letter inconsistent with anything I have uttered upon this floor. I am opposed to slavery. I am in favor of its abolition everywhere where I have the power. Mr. Phillips, as the senator says, takes extreme views. I differ from him altogether in regard to them. He is a gentleman of great talent and character—in my opinion the greatest living orator on this continent. I have heard no man in the country during the last twenty years—and I have heard the foremost orators of the country—that I consider his equal.

My idea is this: I want all men who are opposed to slavery to take a moderate and reasonable position, to abandon the extreme notions which those men entertain, to oppose the extension of slavery, separate the federal government from its connection with it, banish the negro discussions that we are having in these halls, and leave slavery in the slave states, where the Constitution leaves it, to the care of the people of those several states. I believe that when that is done, the liberal, high-minded, just men of the South will, in their own time and in their own way, bring about a safe emancipation. That is my view of the matter. It was so then, and is so now.

MR. BROWN. Well, Mr. President, the senator admits that he wrote the letter. My charge was, that there was an attempt, on the part of these Republican senators, to get up a political marriage with the Abolitionists, and the denial was to that charge. The senator from Massachusetts denied the charge, and was at great pains, in his speech the other day, to complain that I had made certain remarks in reference to Garrison and his friends, and had coupled them with the senator and



his friends; in all of which he intended to discard the idea that there was any kind of affiliation or political association between the Republican senators here and these ultra-Abolitionists out of doors; and yet, when I introduce a letter which comes precisely to the point, showing that the senator himself had addressed one of the extremest of these men, saying: "You and I ought to act together; you and I must act together; three millions of bondmen groan, and you and I must come to their deliverance;" when I show that the senator addressed this appeal to the most ultra of the Abolitionists, the senator comes forward to palliate. But, sir, what becomes of his denial that he ever courted the support or co-operation of these people—

Mr. WILSON. Will the senator allow me a word?

Mr. BROWN. Yes, sir; certainly.

Mr. WILSON. I made the denial; I make it now. The Garrison Abolitionists do not vote. I believe them to be sincerely opposed to slavery, but they do not vote. They have taken positions which, in my judgment, are wrong. What I wished was this: to have the men who act with them abandon their extreme notions, and take a moderate position, and stand where we stand—upon a purely constitutional and national basis.

Mr. BROWN. Then, sir, why did the senator say to Mr. Phillips, "Let us all labor together to secure the co-operation by which alone the slave is to be emancipated, and the domination of his master broken?"

Mr. WILSON. I explained that.

Mr. BROWN. Is not that the precise point to which Phillips is fighting—to emancipate the slave and break the domination of his master? Where? In the states. Is there slavery anywhere else but in the states? When you emancipate the slave, you must emancipate the slave in the states; and when you break the domination of the master, there is no domination to be broken anywhere but in the states. Then, when the senator said to Phillips, "Let us all labor together to this end," was he not inviting Phillips on to his own platform, or was he saying to Phillips, "My dear Phillips, let me go on to your platform." [Laughter.]

Mr. WILSON. Mr. President, I think the senator is entirely mistaken, and is pushing that point further than it can be legitimately carried. My idea is, and was then, that the way to break the domination of the master over the government of the country and over the slave is, so far as we are a nation, to prevent the extension or existence of slavery outside of the slave states, and then to leave the matter with them to settle, because it is the only constitutional way, and the only way in which I believe it can ever be done peaceably. In my judgment, this federal government cannot interfere for the abolition of slavery in the states without endangering the safety of the country, and bringing about a state of affairs that will be detrimental to the interests of both master and slave.

Mr. BROWN. If that was the idea of the senator from Massachusetts when he wrote the letter, he is certainly the most unfortunate man that ever took up a pen to express an idea. While I certainly shall not undertake to say that the senator's interpretation of his own language is not the true interpretation, I do undertake to say, and appeal to the intelligence of the Senate and the world, whether any other man

would put that interpretation on it. When the senator declared: "Three millions of bondmen, groaning under nameless woes, demand that we shall cease to reproach one another, and that we labor for their deliverance," he used language which would teach every man who read it to believe that he was ready for any scheme which looked to the emancipation of the slaves in the states. There are no three millions of slaves anywhere else groaning under nameless woes, nor enjoying the highest degree of human felicity, or any intermediate state of misery or happiness between the two; the only slaves on this continent to which the senator could have alluded, were the three millions of slaves in the states; and when he said to Wendell Phillips: "You and I, your friends and my friends, must labor unceasingly for the deliverance of those three millions of bondmen," he must have meant—at least the human mind will conclude, in the absence of his own denial, that he meant—the slaves in the states. He says he did not so mean, and I am bound to believe him; but I am sorry to trust his candor at the expense of his understanding.

Mr. WILSON. Without interrupting the speaker too much, I wish to say that Mr. Phillips and Mr. Phillips's friends did not so understand it. They know my precise and exact position. The letter was probably hastily and carelessly written to a friend; but the construction the senator puts on it, no man in Massachusetts ever put on it.

Mr. BROWN. I expect the senator has been explaining it there as he has here. [Laughter.]

Mr. WILSON. The question was never raised there at all.

Mr. BROWN. When he wrote the letter to Wendell Phillips, the Abolitionist no doubt expected the co-operation of the senator and his friends; but when he became startled at his own position, and commenced, as he is doing now, to fall back on what he considered to be a more impregnable position, I dare say Wendell Phillips said, "Well, my dear Wilson, you have not spoken as candidly as I thought you did." If, however, the language had been left without explanation in speeches here or elsewhere, I venture to say Mr. Wendell Phillips, and all other men, would have put the same construction on it that I do.

Mr. President, I have already noticed the speeches of the two senators at greater length than I had intended. The material before me is not half exhausted; but if I go on I shall be compelled to overlook some of their associates—I have a word for each of them. The senator from New York I regard as the very Ajax Telamon of his party; and the senator from Massachusetts may, I think, be fairly considered their Jupiter Tonans. I had, therefore, to devote some time to them; but I beg the others not to consider themselves slighted; I will come to them after a while.

I must, before leaving the senator from Massachusetts, even at the risk of being tedious, say a word in reply to the speech pronounced by him the other day. Almost in the outset of his speech he pronounced in measured, studied phrase, "those twin sisters of barbarism, slavery and polygamy."

Mr. WILSON. That was a quotation.

Mr. BROWN. Well, sir, quotation or original thought, for what purpose was it introduced into the senator's speech? If he means, as he says he does, to accomplish his ends by moral suasion, by finally raising

up a party in the South to co-operate with him in the great work of overturning slavery, let me ask, are men persuaded by this sort of denunciation? Is the southern slaveholder to be persuaded by being told that he is the *confrere* of the citizens of Utah—that the man in Mississippi who owns his fifty slaves is as morally corrupt as he of Utah who has his fifty wives? If the senator meant anything, he meant precisely that. If the senator expects to make converts by that species of preaching, he will have to preach to some other people than those whom I represent. Let me say now to the senator and all who sympathize with him, that I love this Union; those whom I have the honor here to represent, and in whose name I speak to-day, love it; but if we are to live together in peace, this sort of denunciation must cease. This species of reviling, these taunts, these insults levelled at every slaveholding family in fifteen states of the Union, must come to an end, or we cannot live together in peace and quietude. I say no more.

The senator denies all association with Garrison, and politicians of that school; but when I allude to what Garrison said, the senator is quick to spring to his feet for the purpose of putting in a vindication. I am always quick, I hope, to vindicate my friends, but very slow to vindicate my enemies. If they have no sympathizing friends here, they can send their vindication through some other channel than myself. But in the very act of vindicating his friend, Garrison, from the charges which I made, the senator admitted all that I said. My declaration was, that Garrison had declared, in the last canvass, that if he had a million of votes to dispose of, he would give them all to Frémont—of course I meant to say in the contest then going on; in the contest as between Buchanan, Fillmore, and Frémont. I did not say that he preferred Frémont to all other men; but that, as against the other two, he would give his million of votes for Frémont. My object was to show the bond of sympathy existing between the Republican senators here, and the Garrison, Fred. Douglas, and Wendell Phillips school elsewhere. I think I made my point clear at the time; but, if I failed to do so then, I trust the senator appreciates it now. It was, and is, that such was Garrison's partiality, such the partiality of his extreme Abolition crew, that if they had millions of votes to give, they would, in that contest, give them all to the Republican candidate. Garrison would give a million of votes to Frémont, and, in return, Frémont would no doubt give a million of votes to Garrison; and the senator, I suspect, would give his million to either of the two, or to Gerrit Smith, or to his friend Wendell Phillips; and I half suspect if Fred. Douglas was on the ticket it would make no serious difference with him. [Laughter.]

I made the charge the other day, and to it there has been no denial from the other side of the chamber, that in the very height of the conflict for the presidency, Fred. Douglas, the free negro editor and orator, took down the name of Gerrit Smith and put up the name of John Charles Frémont. Why was not that denied? My point, as all must have seen, was to show the tie that binds the Republicans on this floor to the extreme Abolition party out of doors. I wanted to show how they were being knit together—how, being drawn into close companionship, they will, by and by, constitute but one party—and then if the extreme Abolition element prevails, as it most likely will, the party must become, *par excellence*, the Abolition party. I believe that thousands of good

men, now in the Republican ranks, will abandon them if they come to understand the designs of the leaders. I meant to expose these designs—to show that there was a plan on foot to Garrisonize the whole party; and if I have done anything towards accomplishing this end I am satisfied.

There are other points in the senator's speech, to which I will reply briefly. He and others have denied that there was anything of sectionalism in the late contest; and their denial is based, if I understand them correctly, on the ground that the mere fact of their candidates for President and Vice President being from the same section of the Union, did not establish sectionalism in the ticket. The senator cited the fact that Mr. Calhoun was upon the same ticket with General Jackson, and yet, he said, there was no charge of sectionalism then. Let me say to the senator, none but the feeblest mind could ever have pretended that the mere fact of both candidates being from the same section afforded evidence of sectionalism. I can select a ticket from Vermont and Massachusetts to-day—and surely it would be as hard to get it there as anywhere else—which would be purely national; and so I could select one from the South which would be purely sectional as against the South. Why, sir, suppose Cassius M. Clay, of Kentucky, were nominated for the Presidency, and Francis P. Blair, of Maryland, for the Vice Presidency: does any one doubt that such a ticket would be a sectional ticket? It would be a ticket hostile to the South, although both the nominees reside in slaveholding states. Surely I need not say to the senator that it is the sentiment of the party, and of its candidates, that constitute its sectionality, and not the residence of one or both its nominees.

Are your sentiments national? Were not the sentiments which you avowed in the late canvass confined exclusively to the favor of one section? Were they not uniformly hostility to the other? Does not the country so recognise them? The senator himself, in the progress of his speech, and while uttering his complaint that we of the South did not tolerate speakers who entertain his opinion, gave us the best evidence of the sectionalism of his party. "Why," said he, "did we not have advocates in the South?" "Because," he answered, "you would not let the friends of our ticket speak there." Why did we not let them speak? Was it because they were national in their sentiments? Was it because they came to advocate sentiments equally acceptable to the North and to the South, equally favorable to the one section as to the other? No, sir, the senator knows this was not the reason. The senator knew perfectly well that the reason why orators of his party were not allowed to speak in the South was simply this: that they came to speak against our institutions, against our domestic peace, against our domestic quietude, against our domestic safety—at least against what we believe to be our domestic peace, safety, and quietude; and of this we simply claimed to be the best judges. The charge that we have stifled debate or attacked the freedom of speech is not true, and those who make it know it is not true.

But, sir, the object of the senator in introducing this point was to complain of the want of liberality in the South. "Why," said he, "your southern people will not permit northern men to go there and express their honest sentiments. When they do go, you get up mobs

and drive them out." Let me say to the senator, that when he or his friends come to the South to utter national sentiments, they will be heard with attention and listened to with deference. But when they come to preach such sentiments as a senator on this floor has been heard to utter within the last week, they may deem it fortunate if they escape the fury of an outraged people. When any man, whether he be a senator or a private citizen, comes to tell our slaves "that they have a right to murder their masters, and that he will not advise them not to do it," we consider it no breach of hospitality, no violation of the freedom of speech, to say that such sentiments shall not be expressed in our midst. If the senator shall ever come to Mississippi and say there what I understand he has said recently in this city, he will be ejected, if, indeed, no severer punishment shall be inflicted on him.

Mr. WILSON. Do I understand the senator from Mississippi to state that I have said in this city anything of that kind—that I would advise the slaves to cut their master's throats, or in any way whatever commit any violence?

Mr. BROWN. I undertake to say, not what the senator has said, but what I understand he has said, from gentlemen who come to me avouched as men of character, namely: that he did say, in a public hotel in this city, in the last five days, that the slaves had a right to kill their masters, and that he would not advise them not to cut their masters' throats.

Mr. WILSON. Mr. President, I desire to say here now, that in this city, or out of this city, I never harbored a thought of that character, and never gave it utterance—never at any time, or upon any occasion. If I could speak to the slaves of the South I would utter no voice of that character; I would advise no violence whatever. I do not believe in it; I would not advise it; on the contrary, I believe that any insurrections, any acts of violence on their part, can only end in one way, and that is to their own injury.

Mr. BROWN. Mr. President, I certainly shall make no question as to the veracity of the senator. I have repeated what I have heard. I have repeated what I have in writing from a man whom gentlemen of the very highest character assure me is a man of respectability and honor. He told me that he heard the senator say so; and he asserts, likewise, that there were other witnesses present, whose names he gave me. If the senator denies the charge, of course his denial ends the controversy. I am not to stand up in the face of the Senate and on any proof insist that a senator has spoken falsely. It is not my duty to do so. I will have no question of that sort with the senator from Massachusetts or any one else; but if he desires to know upon what authority I made the statement, I am prepared here, or upon a private call, to produce the evidence.

Much has been said, Mr. President, of an irritating character, on both sides of this slavery question. I do not know that the breach between the North and the South can ever be healed. But it is very certain that those who desire peace should throw their oil on the water and not into the fire. While, therefore, I shall, as always heretofore, refuse to make unmanly concessions, I will abstain from saying anything that is irritating or unnecessarily severe. I am not ashamed to say that I want peace.

Senators on the other side of the chamber, and their sympathizing friends all over the country, deplore the condition of the black man in the South. I shall not pause now to contrast his condition there with what it is in his native country. If the Christian religion be a reality—and in its sublime truths I am a firm believer—I am at a loss to understand how any man can pretend that the barbarian and cannibal, standing on the shores of Africa, and blessed with freedom, is better off than the civilized and evangelized slave on a southern plantation, cursed with bondage. Allowing all you say of the horrors of slavery to be true, they are more than compensated by the moral and religious elevation of the African in this country. But what you say is not true, and all the world knows it is not. One thing I may mention that is true beyond all controversy, and that is, that those most familiar with slavery see the least of its horrors. I speak not alone of those who live in the South, and who see it every day in all its forms; but of those in the free states most contiguous to it. The people in southern Illinois and the eastern part of Indiana live almost in sight of slavery, and mingle with it almost every day in Kentucky and Missouri. The people in these localities, more than any others in the free states, trade to the South; they visit the plantations and mingle freely with the slaves and with their masters. The result is that they discard the sickly sentimentality so freely indulged in by those who know nothing of slavery except as they see it in Abolition newspapers and Black Republican speeches. Fourteen counties in southern Illinois gave Buchanan fourteen thousand votes, and Frémont less than four hundred. I suppose the mob did not drive the Republican orators out of that country, as they did from the Southern States; or if they did, I hope it is not to be charged to the account of the slaveocracy. The simple truth is, Mr. President, there is not one man in a thousand, who knows anything of slavery practically, that does not believe it to be the normal condition of the negro race. Seen through the interstices of Uncle Tom's Cabin, Garrison's Liberator, or one of the senator's speeches, it is, I grant you, a frightful outrage on humanity.

The senator alluded, the other day, to certain speeches made by leading statesmen in Virginia, which he assured us were more or less favorable to his side of this question. Does the senator know why such speeches are not made now? Does he know why the ameliorating process in the condition of the slave, then going on, has ceased? Does he know why there are thousands of slaves in bondage to-day who might otherwise have been free? Does he know why the slaves are not educated? why their liberty is restricted, and their bondage made to sit more heavily upon them? If he does not, I will tell him. It is because of the impertinent intermeddling of himself and his friends with matters that did not concern them.

The senator told us, the other day, on what terms we could get his sympathy. Let me tell him on what terms he can get our respect and the gratitude of the slave. He can get both by simply minding his own business. His present policy is annoying to us and detrimental to the slave. I use those words in their proper sense. He may annoy and vex the master; but if he lets slavery alone in the states, as he says he will, he will do him no harm. He may damage the slave by vexing the master; but if he leaves the slave in bondage, he will do him no good.

If you do not mean to overthrow slavery in the states, quit talking about it, quit exciting the fears of the master without a cause, and quit arousing the hopes of the slave without a purpose. That is my advice, and I charge nothing for it.

There is one point of attack against slavery which seems to be a favorite with all its assailants in the Senate and out of it—and that is, its enervating and destroying effect on the people and states where it exists. The senator from Massachusetts went out of his way, the other day, to tell us that slavery had converted Mount Vernon into a jungle. While these charges are made and dwelt on with peculiar unction by the senator from Massachusetts, it is curious to read and ponder the speeches of the senator from New York, appealing to twenty-five millions of free men to rise in their majesty and put down the three hundred and fifty thousand slaveholding aristocrats, who are ruling the country, sapping the foundations of liberty, and establishing an aristocracy in our midst. If slavery blights as with a mildew everything that it touches; if it converts cultivated fields into wild jungles, and stately mansions into bat-roosts; if it renders the people imbecile in morals and mentally impotent; is it not a little strange that three hundred and fifty thousand slaveholders should so have got the start of all the world, that twenty-five millions of free men are called into action to curb their growing power? The truth is felt, Mr. President, though it is not acknowledged, that slavery has an elevating and ennobling effect on the white man. It is not true that the intellectual giants of the South, who have guided the destiny of the nation through so many years, are but the feeble progeny of an imbecile race, rendered morally oblique and intellectually impotent by the existence of slavery in the Southern States. It is not true that three hundred and fifty thousand slaveholders, living in jungles, with no activity of mind, and no energy of body, have so excited the fears of the senator from New York. When we compare our Washingtons, Jeffersons, Madisons, Henrys, Marshalls, Jacksons, and Calhouns, with your greatest and best men, no one can say, with truth, that we have cause to blush.

But you tell us that your people are more progressive than ours. In the mechanic arts I grant that they are. Your work-shops are more numerous, and on a larger scale than ours. The work-shop is the home of vast numbers of your people. In its arts they excel, and we rejoice at their success. We rejoice, because it is for our mutual advantage that they succeed. We rejoice still more, because their success is a part of the common inheritance of the whole people. On the other hand, our home is in the cotton, sugar, rice, and tobacco fields of the South. In our department who will deny that we have succeeded as well as you? Nowhere on the habitable globe has the culture of cotton been brought to such perfection as in the Southern States of this Union. If gentlemen would only reflect that a proper division of labor, and the highest degree of success in every department, is the best evidence of national prosperity, these ill-natured flings at the South would cease at once.

I have no time to pursue this train of thought, though it might be done with profit both to the North and to the South. Whatever the northern people may say of us, we shall never cease to rejoice in their prosperity.

I must pass on, Mr. President, because I find that my voice is failing me, and even my physical strength is giving way. The senator from Maine [Mr. Fessenden] the other day told us that the South was constantly making demands; that the South demanded that such and such things should be done by Congress; and upon the failure of compliance we threatened a dissolution of the Union. If the senator has so understood us, allow me to say to him that he has understood us amiss. In making that declaration he did us grievous wrong. The South has demanded nothing. She never came to your doors with a petition for favor at your hands. She never asked affirmative legislation from this government, on the subject of slavery, since it has had an existence, save in the pursuit of a clear and admitted constitutional right. Her position has been one of opposition to your action. Not being a petitioner, she has uniformly come here to remonstrate against your action. Her whole demand, her whole policy, might at any moment have been summed up, and it is now, in these three short words: "Let us alone." As some evidence that I am right on that question, I beg to read for the information of the senator from Maine the positions taken by my own state, not through her legislature, not through any informal convention, not through any primary mass meeting called by a newspaper, but through a convention of her people lawfully called to express her sovereign will in reference to this whole matter in controversy. So far as she is concerned, she demands nothing; and I believe I can appeal with perfect confidence to senators from all the Southern States to bear me witness that her position is substantially the position of their states. First, she says there shall be no interference by congressional legislation with the institution of slavery in the states. She certainly asks nothing in that but your forbearance. She then says, second, the slave trade between the states shall not be interfered with by action of Congress. Then she says, third, there shall be no action of Congress on the subject of slavery in the District of Columbia, or any place subject to the jurisdiction of Congress, incompatible with the safety and domestic tranquillity, or the rights and honor of the slaveholding states. Then she says, fourth, that the refusal of Congress to admit a new state, on the ground of her tolerating slavery within her limits, would be subject for complaint; and declares, fifth, that Congress shall pass no law prohibiting slavery in any of the territories; and, sixth, that the repeal of the fugitive slave law, or the neglect or refusal of the general government to enforce the constitutional provision for the recovery of fugitive slaves, would be ground of complaint.

These are six positions taken in convention, and neither one of them looks to affirmative action on the part of the government; neither of them demands anything but your forbearance; neither of them demands anything except what may be summed up in three words—let us alone. Beyond that I undertake to say there is not now, has not been, and, in my opinion, never will be, any considerable number of southern people demanding anything. Let us alone; leave us where we were left by the Constitution of the United States; cease to interfere with us; cease to make war upon us and our institutions, and our domestic safety, and we shall move on harmoniously together as our fathers did before us.

I feel, Mr. President, that I ought to say a word in reference to our position as regards the territories. There seems to me to have been a



most persevering attempt commenced, and pertinaciously kept up, throughout all the Northern States, to misrepresent the position of the Southern States and people on this point. What have we asked? What do we ask now? Simply to be treated as equals—to be allowed our equal rights and our equal position in the territories. The soil, all must admit, is the common property of all the people or of all the states. We have asked that Congress shall so treat it, and make no insulting discrimination between the people of Mississippi and the people of Massachusetts—between the people of New York and the people of Virginia; but that all alike shall be allowed to go to the territories, and take with them whatever is recognised as property by the laws of the state from which they go. We have insisted, and do yet insist, that whoever makes laws for the territories is as much bound to give protection to us and our property, as to give protection to the northern man and his property. No right exists to discriminate against us, and we ask no discrimination in our favor. I appeal to the plain common sense of every man, if in this there has been anything unreasonable. In the name of all that is just, has not the citizen of Virginia the same right to go to Kansas or any other territory, and take with him that which is recognised as property by the laws of Virginia, as a New Yorker has to go and take with him that which is recognised as property by the laws of New York? Have citizens of Massachusetts, let me ask, any higher privileges in the territory than citizens of Mississippi? And if so, where did they obtain them? How did they derive them? By what authority do they undertake to claim for themselves exclusive privileges in the territories? If gentlemen are prepared to meet us on this ground of equality, the whole matter in controversy, as regards the territories, is settled at once. If any Mississippian shall attempt to set up authority through Congress, the territories, the people, or the states, to exclude citizens of Massachusetts, Maine, New York, New Hampshire, or of any other state, from the common territory, he will find himself opposed by the whole mass of southern people. We have always said, as I say to-day, that the citizens of the New England states, the citizens of all the free states, have the same right to go to the territories and take with them that which is recognised as property by the laws of their states, as we claim for ourselves, to go and take that which is recognised as property by the laws of the states from which we go. Then as to the protection of property after it gets there—whoever makes laws for the protection of the property of citizens of Maine, New York, New Hampshire, or Massachusetts, is, in my judgment—and I stand on that claim—equally bound to make laws for the protection of the property of Mississippians, Virginians, and Tennesseans. If you ask no protection for your property through congressional legislation or through territorial legislation, we shall ask none for ours. If you ask protection for your property, we say we are equally entitled to protection for ours. We say that neither Congress nor the territorial legislature shall, with our consent, make any insulting discrimination between the people and property of one section of the Union, and the people and property of any other section—between the property of a citizen of New Hampshire or Massachusetts, and the property of a citizen of Maryland or Mississippi. Can we maintain ourselves on the soundness of this position? And if not, why?

Do gentlemen claim that we are under the ban of the Constitution? Do gentlemen pretend that the Constitution which gives us our authority to be here, which authorizes me to address this august body to-day, which brings us into this council-house, discriminates against the property of the fifteen Southern States of this Union? Do they pretend that there is anything in that Constitution which denies to our property equal protection in the territories with the property of the other sixteen states of the Union? I undertake to say that it is the only article of property which is clearly and distinctly recognised by the Constitution. Take anything else, merchandise, live-stock, anything you please, and you can find nothing in the Constitution which specially and specifically looks to its recognition as property. The Constitution does recognise persons held to service (slaves) as property, and it recognises nothing else by name. Every other kind of property is left to the protection of local or state legislation. Not a word is found in the Constitution about merchandise, live-stock, or money as property. Persons bound to service (slaves) alone are mentioned. Then with what pretence of justice is it said, that this property is under the ban of the Constitution, or that it is not equally entitled to protection with any other kind of property?

The Southern States, Mr. President, have been accused of violence in the maintenance of their rights under the Constitution, as they understand them. Our people are set down as lawless, and are constantly charged with attempts to carry their points by force. A stranger would be very apt to conclude from the accounts given of us, that every southern man was a walking citadel. I shall make no defence against charges like this—our states and our people stand on the defensive. Never, sir, never since the government was founded, has the North had reason to complain that either the Southern States or the southern people have interfered with their domestic concerns. I have no reproaches to utter; but can our northern friends say as much? Can they say that they have never interfered with our domestic affairs?

When the Kansas bill was passed, we hoped there would be an end of this controversy. It was intended to take the question of slavery out of Congress, and transfer it to the people of the territory where it properly belonged, and who, as we all agreed, had the right, *at the proper time*, to settle it for themselves. What the proper time may be was a subject left open for discussion; and to this point I will recur presently.

It certainly was not contemplated by any of us that violence was to be used by any party to coerce a decision in Kansas. The people there, those who were *bona fide* citizens of the territory, were to be left perfectly free to settle their domestic affairs in their own way, subject to but one influence, and that the benign and peaceful influence of the Constitution. No sooner had this bill passed than a concerted and powerful effort was set on foot here, and rapidly taken up in the New England States, to colonize the territory with a vagrant population. Men were enlisted and sent there, not to cultivate the soil, not to erect work-shops and carry on the mechanic arts—no, not for these purposes. They went not with the artisan's tools or the implements of husbandry in their hands, but with rifles, bowie knives, and other deadly weapons. Their object could not be mistaken. Instead of colonizing the country,

and making for themselves beneficent and wholesome laws—laws under which they meant themselves to live—people went to Kansas for no higher purpose than to fan the flames of discord, and to make laws from which they meant themselves to flee. They went for mischief, and they got it; they sowed the whirlwind, and reaped the storm. They were sent to Kansas to make Kansas a free state, *nolens volens*, and the Missourians were inflamed to madness by their conduct. It was not, sir, that these men went, or the states from which they went, that stirred the blood of Missourians, but it was the purpose for which they went. When the Kansas bill passed, very few of us expected Kansas to become a slave state, and very few of us cared much whether it did or not. But when we saw an attempt made by the enemies of slavery to plant on the borders of a slave state a free-soil colony, with no higher purpose than to harass that state—when we saw an attempt made by strangers to enslave the *bona fide* white settlers in Kansas, by forcing on them, not a Kansas but a New England government, our people rose *en masse*, and swore, by the God that made them, these things should not be.

The senator from New Hampshire [Mr. Hale] the other day paraded before the Senate a handbill—and he did it with a flourish of trumpets that would have done honor to the fat knight when he claimed the credit of killing Hotspur. The handbill spoke of Buchanan, and Breckenridge, and *free Kansas*. The senator evidently thought he had made a grand discovery. I certainly do not mean to approve of that handbill. It probably suggested an erroneous idea to many who saw it. It may have suggested that the Democratic party was for Kansas free, as the senator from New Hampshire understood the word “free;” and if it did, it suggested a falsehood. The Democratic party, as a party, is neither for free Kansas nor slave Kansas, as the Free-soilers understand the words “free” and “slave.” The Democratic party is for leaving Kansas perfectly *free*, at the *right time*, to settle the slavery question for herself, restrained only, as we all are in our action, by the provisions of the Federal Constitution. In this sense the Democrats are for *FREE* Kansas. The senator’s idea, if I understand him, is to make Kansas free by releasing the black man from the authority of his master, and then force a government on the white people in the territory, through the agency of New England emigrant aid societies. His free Kansas makes the negro free by enslaving the white man; but my free Kansas makes the white man free, and leaves the negro where the Constitution left him—subject to the authority of his master.

I was somewhat surprised, Mr. President, the other day, to hear the senator from Illinois [Mr. Trumbull], in catechising the senator from Pennsylvania [Mr. Bigler], who was then addressing the Senate, raise the question as to how far we, on the Democratic side of the house, concurred in opinion upon the mooted point of squatter sovereignty. I suppose the object of the senator in introducing that point was to make mischief—to stir up strife between senators on this side of the chamber. If that was his purpose, let me say to him that he fell, as he will continue to fall, very far short of his mark. That there may be shades of difference in our opinions is very likely; that I do not, on every point, concur with my distinguished and venerable friend from Michigan is probable; but that there is any difference between us which can by possibility prevent our acting in harmony for the accomplishment of certain

great purposes which the national Democracy have in view, I utterly deny. I should prefer to have my friend agree with me, as he may prefer to have me agree with him; but our difference is not such, as I shall presently show, that we may not, without sacrifice on either side, act together on practical issues.

But, sir, how comes it that the senator from Illinois, how comes it that other senators on his side have, all of a sudden, found something so monstrous in this doctrine of squatter sovereignty? When had we the first evidence exhibited to us of the power of squatter sovereignty on this continent? Excuse me, sir, but I undertake to say, that the first exhibition of it was in the state which you have the honor solely at this moment to represent on the floor of the Senate [Mr. Weller in the chair]. When the people of California assembled in convention, and undertook to frame a state constitution for themselves, they were all squatters; they were in the country without authority of law; there was no law authorizing them to be there. When they assembled in convention on the high mission of making a state constitution, they assembled there to perform an act of sovereignty; when they made the constitution and set up a state government in all its forms, it was an act of sovereignty performed by squatters and by nobody else.

Now, sir, I ask senators on the other side of the chamber, whether they did not sanction that proceeding? I pray you, gentlemen, were you not, one and all, in favor of admitting California under her squatter-sovereignty constitution? Was not the senator from Illinois the advocate for the admission of California under the constitution thus formed? Was not the senator from New York, and he from Massachusetts, and he from Ohio, all around the chamber, wherever they are, were they not friends of the admission of California under her squatter-sovereignty constitution? Then what right have they to complain of squatter sovereignty? And then who was the first representative of squatter sovereignty on this floor? When California was admitted, there were already at the door of the Senate two gentlemen asking for admission. One of them was John Charles Frémont. He came here as a senator, the first who presented himself from California, and he was the very embodiment of squatter sovereignty. He had no constituency but a squatter-sovereignty constituency. He came from no state but a state brought into being by squatter sovereigns. These gentlemen, to a man, advocated his admission. They not only went for the admission of the state, but for the admission of her senators. Thus they endorsed the whole proceeding up to that time. I suspect that they, and all their class of politicians, are very much like one I heard speaking lately. . . He said he was for squatter sovereignty if it worked out in his favor, and against it if it did not.

In my opinion, squatter sovereignty is a misnomer, and territorial sovereignty a humbug. I understand, sir, what is meant by state sovereignty, and, in my opinion, there is no other kind of sovereignty existing in this country. Squatter sovereignty, territorial sovereignty, and popular sovereignty (when applied to the territories), all belong to the same category, and they are all political absurdities in my opinion. But I am not going to bore the Senate by giving the reasons why I think so.

We agreed to let Kansas and all the other territories manage their own affairs in their own way, *subject only to the Constitution*. We differed

as to what a territory might rightfully do under the Constitution. My friend from Michigan [Mr. Cass] thought, and still thinks, a territorial legislature, such as that in Kansas, has the right, under the Constitution, to exclude slavery. I think differently. He is not seeking to have his ideas enacted into a law by Congress; nor am I. He admits that if the legislature of Kansas has not the right, under the Constitution, to exclude slavery, Congress cannot confer it; and I know, if the legislature has the right Congress cannot take it away. Therefore, neither of us propose that Congress shall do anything. We voted together on the Kansas bill, and agreed then to refer all our difference of opinion to the Supreme Court of the United States—the only tribunal on earth competent to decide between us. When that decision is rendered, we both stand solemnly pledged to abide by it. I speak not now of what a sovereign state, in the exercise of her reserved rights, may do—that is a subject for future consideration and decision. Now, sir, the difference between my honorable friend and myself is precisely the difference between Democrats who believe in squatter sovereignty and Democrats who do not believe in it.

If an unorganized territory, such as California was in 1849, such as Kansas was in 1853, such as the Indian Territory outside of Arkansas now is, shall undertake to exclude slavery, the senator from Michigan and myself agree that it undertakes to do what it has no right to do. But if an organized territory, like Kansas or Nebraska, undertakes, through its legislative council, to exclude slavery, the senator thinks they have the right to do it. I do not think so. This he calls popular sovereignty. I call it the assumption of a right not conferred by the Constitution, and therefore not existing in the territory. He may be right. I think he is not. But neither of us desires or expects Congress to decide between us.

The senator from Illinois [Mr. Trumbull], the other day, interrogated the senator from Pennsylvania [Mr. Bigler], as to what Mr. Buchanan's views were on this point. My friend from Pennsylvania declined to reply, because he had no authority to do so. The friends of Mr. Buchanan were satisfied with his position on this point before they nominated and elected him, and they are not likely to fall out with him now on account of any suggestions coming from his enemies, secret or open. That he will hold the scales of justice in equal balance, between the North and the South, I have no doubt; and if he does, his friends North and South will adhere to him. They were strong enough to elect him; and if he fulfils their hopes, as I am sure he will, they will show themselves strong enough to carry his administration through in triumph. Mr. Buchanan may laugh his enemies to scorn. He has only to feel the inspiration that moved the hearts of his friends at Cincinnati, and stand firmly on the platform laid down by them, and they will throw over him their arms, and build around him a rampart that will defy the power of the Black Republicans and all their allies.

But, to return to the territories: We of the Democratic faith all agree that they may, at the proper time, settle the slavery question for themselves. Some think it may be done sooner; but we all agree that when the people of a territory meet in convention to frame a state constitution, they may, in that constitution, admit or exclude slavery, as they please; and we agree, further, that their decision is final. If Kansas

comes here with a constitution made by her *bona fide* people, free from all outside influences, excluding slavery, there is not a Democrat in either House of Congress who will not vote for her admission; and if, on the other hand, she comes with a constitution similarly made tolerating slavery, there is not a Democrat who will not vote for her admission. Break up your emigrant aid societies at the North, and all interference from the South will cease. Then Kansas, being left perfectly free to regulate her domestic affairs in her own way, may assemble her people in convention, frame her constitution to suit herself, admit or exclude slavery as she pleases, and she will be welcomed into the Union with open arms by every friend of free institutions, from the Aroostook to the Rio Grande, and from the Atlantic to the far-off Pacific. Sir, the Democracy has stood for fifty years, like our own ocean-bound republic. The waves of faction have beaten upon it, and they have broken, in harmless ripples, at its feet. It stands to-day a fit type of our glorious country—the hope of the oppressed in every land, and a beacon-light to the sons of freedom throughout the world. It will uphold the Constitution. It will preserve the Union. It will disappoint the tyrants of the Old World, and the enemies of liberty in the New. Democracy will go on conquering and to conquer, until all parties shall confess its dominion, and the whole world be converted to the sublime truths which it teaches. This is its mission.

We mean, Mr. President, to settle this slavery question on a firm and lasting, because on a just, liberal, and constitutional basis. We mean to stop agitation; we mean to give repose to the South, and quiet to the whole country; we mean to rout the Abolitionists and bury Black Republicanism so low that the sound of Gabriel's trumpet will not reach it on the day of judgment! This is our hope; this our prayer; this our confident expectation; but if we shall be deceived in this—if it shall please God to prosper our enemies—if there shall be no settlement—if agitation is kept up—if the South can have no peace—if our enemies have the power, and are resolved to use it in breaking up the Union, and trampling the Constitution under foot—then we will turn to the senator from New York, the great chieftain of his party, and the author of all our woes, and we will say to him and his infatuated allies, as Abram said to Lot: "Let there be no strife, I pray thee, between me and thee, and between my herdsmen and thy herdsmen, for we are brethren. Is not the whole land before thee? Separate thyself, I pray thee, from me: if thou wilt take the left hand, then I will go to the right; or if thou depart to the right hand, then I will go to the left." If this appeal shall fail to reach the heart of the senator and his allies, there will be but one alternative left us, and that an appeal to the God of battles. May Heaven, in its mercy, avert such a calamity!

## THE RHODE ISLAND RESOLUTIONS ON THE SUMNER ASSAULT.

SPEECH IN THE SENATE OF THE UNITED STATES, JUNE 16, 1856, ON THE  
RESOLUTIONS OF THE LEGISLATURE OF RHODE ISLAND,  
RELATIVE TO THE ASSAULT ON MR. SUMNER.

MR. BROWN. I object to the printing of these resolutions; and I know the responsibility which I assume in objecting to printing resolutions coming from a sovereign state of this Union. I make the objection without expecting to succeed in it.

MR. WELLER. I believe the rule of the Senate requires the printing of resolutions coming from state legislatures. I present the point of order, that the rule requires the printing of memorials and resolutions of state legislatures, and you cannot abrogate or change that rule without presenting a proposition for that purpose, which requires one day's notice.

MR. BROWN. I suppose it at least admits of debate, whether we shall print the resolutions or not.

MR. SEWARD. Freedom of debate requires that.

MR. BROWN. As I have already said, I do not expect to succeed in my opposition. I am aware of the rule to which the senator from California alludes. When the legislature of Massachusetts thought proper to send us resolutions in reference to what she conceived to be an outrage on one of her senators, I thought it well enough to let the matter pass without discussion; but when another state conceives it to be her duty to take up the question, and come in with her resolves, denouncing the transaction which took place here as a cowardly and brutal outrage, and as an attempt to stifle debate, it strikes me as presenting the subject altogether in a new light.

I have seen nothing in this matter which struck me as an attempt, on the part of any one, to stifle or check the utmost freedom of debate, here or elsewhere. A senator from Massachusetts, in the exercise of his privilege, delivered himself, with the utmost freedom, of his opinions upon certain very delicate questions; and in the progress of his remarks, took occasion to reflect severely upon the historic character of one of the states of this Union, and to reprobate, in strong and pointed personal terms, the conduct and bearing of one of the senators from that state, who was then absent. A representative from South Carolina felt it to be his privilege to call that senator to personal account for what he said on that occasion.

Now, sir, I know what are the guarantees of the Constitution; but in the wildest flights of my imagination, I never dreamt that the Constitution guaranteed, or undertook to guaranty, to me, or to any other member of the American Senate, the unrestrained privilege of denouncing states, and senators, and private citizens, in such terms as I might think proper to employ, and yet of claiming under the Constitution immunity from all account, out of doors, for what I might say. I had supposed, and I do yet suppose, that if, in the exercise of my privilege as a sena-

tor, I denounce any gentleman in terms to him personally offensive, I am, as a gentleman, accountable to him for what I say; and the Constitution never undertook to shield and protect me against that.

Mr. JAMES. The honorable senator and myself perfectly agree in that respect.

Mr. BROWN. I dare say that I perfectly agree with my gallant friend from Rhode Island; but do I agree with "little Rhody?" Does Rhode Island agree to this? If she does, why comes she here with these resolutions? Why does she, in her sovereign capacity, as a member of this confederacy, undertake to interpose in a mere personal quarrel—in a mere personal controversy, between two individuals? I take it for granted that the honored state from which my friend comes, believes that a great outrage has been committed on the Constitution; that there has been a *bona fide* attempt here to restrain the freedom of debate; that the South, in the person of the representative from South Carolina, has undertaken the grave task of restraining the North, in the person of the senator from Massachusetts, in the full exercise of that freedom of speech which is guarantied by the Constitution.

That is the light in which I am to suppose Rhode Island views the case, judging by the resolutions which she has sent here, and which are now on your table. I do not regard the transaction in any such view. If, as I said at the outset, a senator has made a gross personal assault by words upon any senator, or upon a representative, or upon anybody out of doors, then, in his person, not as a senator, but as an individual, I hold that he is accountable for such insult and outrage. Heaven forbid that I should ever undertake to protect myself under the panoply of the Constitution for words spoken here. So long as I confine myself to the legitimate discussion of questions fairly before the Senate, avoiding personalities, it would be an outrage on the freedom of debate if any one here or elsewhere should undertake to call me to account, or prevent me saying what I choose to say in respect to questions before this body; but if I go outside of the line to offer a personal affront to a brother senator, a personal indignity to a member of the House of Representatives, to a state of the Union, or to any private citizen, I must be accountable for it; and the Constitution, I apprehend, never undertook to guaranty me against being called to account if I thus trespass on the rights of others. Rhode Island must either be mistaken as to what are the facts of the case, or understands the Constitution of our country in a different light from that in which I understand it. I rose, sir, to object to the printing of the resolutions, simply that I might have an opportunity of presenting my humble protest against their doctrines.

In reply to Mr. Seward Mr. BROWN said:—

If the senator from New York will allow me, I will state what I meant. He will understand me as saying that neither the senator from Massachusetts, nor any other senator, is responsible in a court of justice, as for a libel, for anything uttered on this floor; but he will also understand me as taking the ground distinctly, that, as a man and as a gentleman, he is responsible out of doors for what he says here personally offensive to other people. In other words, if I choose, on the floor of the Senate, to offer to the senator from New York a gross personal insult, as a man and as a gentleman, I am responsible to him. The Constitution has never undertaken to shield me from that responsibility. While I say



nothing of the conduct of other gentlemen, I say for myself, that, if I offered such an affront and the senator demanded of me satisfaction, and I undertook to shield myself behind the Constitution, all Christendom would say that I had acted meanly and cowardly.

Mr. SEWARD. I do not misunderstand the honorable senator from Mississippi; at all events, I am sure I do not intentionally misunderstand him. I understand him to say that the state of Rhode Island takes alarm unnecessarily, and unwisely, and unjustly, for the freedom of debate in the Senate of the United States, under the circumstances presented on this occasion. Those circumstances are simply these—that a senator, for words spoken in debate, has been assailed, beaten, and brought to the floor of the Senate Chamber, by the hand of a member of the House of Representatives.

Mr. BROWN. Allow me to say to the senator that I treat the transaction which chanced to happen in the Senate Chamber precisely as if it had happened anywhere else. I attach no special sanctity to this chamber, except when the body is in session. I prefer, as a mere matter of taste, that this transaction should have occurred elsewhere; but I say, I attach no special importance to its happening here. If Mr. Brooks committed any outrage upon Mr. Sumner, if his conduct was cowardly, if he crept upon him and struck him unawares, and thereby got the advantage, Mr. Sumner yet survives; he has a right to demand personal satisfaction. If he demands it, and Mr. Brooks refuses it, I shall then know where to put my denunciation. But this, I say again, is a matter of controversy between two persons, with which I think the states of the Union have no sort of connection.

Mr. SEWARD rejoined, and Mr. BROWN replied as follows:—

There is only one point in the speech of the senator from New York on which I care to comment. He agrees with me that senators and representatives are not to be called to account by libel suits for words spoken in debate; but he goes further, and takes the ground that they are not to be called to account in any manner, no odds what they may say. He thinks that a senator may get up here, and offer any sort of affront which he may choose to offer to a brother senator—may denounce in any manner, no matter how broad, a member of the House of Representatives—may utter every sort of denunciation against a private citizen, may belie, libel, and traduce a sovereign state of this Union; and yet for all this is protected by the Constitution, and that to call him to account outside of the Senate is a grave offence against the Constitution. So I understand the senator. He nods assent.

Against all that doctrine I enter here, in the American Senate, my most solemn and emphatic protest. I am willing that it shall go to the country that, if I offend the senator from New York in debate, I am responsible to him, not as a senator, but as a man and as a gentleman; I am responsible to him out of doors, and the Constitution has thrown around me no protection in that regard. If I say of any man out of doors, who is entitled to be recognised as a gentleman, an offensive thing, I am responsible for having said so, in my personal character as a gentleman. If I choose to denounce the state of Massachusetts in gross and offensive terms, or the state of New York, and one of her citizens calls me to account for it, as a man, as a gentleman, I am responsible, and the Constitution has given me no immunity against

such responsibility. The Constitution has guarantied to me the right to say what I choose in this chamber. Though it may be libellous, though it may be grossly scandalous, though it may be in the highest possible degree offensive, I am not to be called to account in a court of justice, as a senator, for what I say here; but the Constitution has given me no license to libel "all the world and the rest of mankind;" it has not guarantied to me the privilege of saying to the senator from New York that he is a black-hearted Abolitionist, or anything else that may be personally offensive to that senator, and then given me an immunity, a protection, a guarantee, against responsibility outside of this chamber. The Constitution, in my opinion, has given me no such guarantee; therefore, I say, as I did at the outset, without meaning to protract this debate, that the senator from New York and myself are pointedly at issue as to what are our constitutional rights on this floor.

I mean, as a senator, so long as I occupy a position here, to be responsible out of doors for whatever I say—not in any libel suit—I will protect myself against that if I choose to do so, because that is my constitutional right; but for whatever I say here, as a man, as a citizen, and as a gentleman, I will be responsible out of doors. I believe the Constitution gives me no protection, nor did it ever design to give me protection against such responsibility. If it had undertaken to do it, the undertaking would be futile.

There is no use in discussing this question. If men will give gross personal affronts to others, they must be responsible in their own proper persons; and no laws, no constitution, until our whole nature is changed, can alter this feeling of our common humanity. We must either be base, beneath the dignity of men, or elevated to the dignity of angels, before you can enforce any other rule, whether it be in the Constitution, in the law, or elsewhere. A person must be less than a man, and, from the very nature of his degradation, too low to resent a personal affront, or else he must be akin to the angels, and, therefore, so much above man, that there can be no occasion for his resenting personal injuries, before you can enforce that rule. The men who made the Constitution were human. They were like the senator from New York and myself. They never undertook to debase us below the dignity of men, or elevate us to the dignity of angels or demi-gods. They regarded us, I conceive, as mere mortals; took us as they found us, and made a Constitution which suited our condition as men—I trust, as dignified men. They protected us against vexatious suits for libel and damages for what, in the discharge of our duties, we choose to say here. They never gave us, in my opinion, an unlimited privilege of libelling all the world, and then saying to all the world, "Hands off; we are a privileged class; we are clothed with the panoply of the Constitution; here we stand in all our majesty and in all our dignity; we say to you that you are rogues, thieves, liars, scoundrels, cowards, and everything which can make you infamous, and yet we are not responsible because we are senators." I believe no such thing, and will maintain no such doctrine here or elsewhere; and this I say independent of the fracas which occurred on the floor of the Senate Chamber—not in the Senate.

## PERSONAL EXPLANATION.

On the 20th of March, 1858, Mr. Brown made the following remarks :—

I HAVE a very small matter of account to settle with the senator from Massachusetts [Mr. Wilson], and as it only concerns myself, it is not material that anybody but himself should be present. In a speech pronounced by him on the 4th of February—which I did not hear at the time—he made certain quotations from a speech of mine delivered some years ago, and he did me (unintentionally, I have no doubt) very marked injustice. I did not reply at the time, because I did not chance to be in my seat. He quoted two paragraphs from my speech, and quoted them correctly. He then quoted what purports to be a third paragraph from the same speech; but I never should have known that it was taken from the same speech if he had not so stated; because, having read the whole speech over since, I find no such paragraph as the third one in it. It is only by that landmark that I was enabled to trace out in what speech of mine it was intended to locate that third paragraph, to which I now call the attention of the senator and of the Senate. He says—attributing the language which he quotes as being used by me in the speech alluded to :—

“The senator makes professions of devotion to the Union. In the very speech from which I have before quoted, the senator says that—

“‘Our people have been calculating the value of the Union.’ \* \* \*  
‘I tell you candidly we have calculated the value of the Union. Love for the Union will not keep us in the Union.’

“The whole tone, temper, and sentiment look not to the support of the Union as our fathers made it, but to the triumph of a sectional southern policy, to the expansion of slavery, or to the ultimate overthrow of the government of this country.”

Now, sir, no such paragraph as is here quoted appears in the speech in which the first two paragraphs, quoted by the senator from Massachusetts, appear. It is a speech delivered by me on the 30th of January, 1850, in the House of Representatives, and reported at pages 250–258, and along there generally, of the Congressional Globe of that year. The three sentences embodied in that paragraph may possibly be found in the whole body of the speech. I believe they may be, by dividing sentences, and taking detached portions of paragraphs, and putting them together. What I assert is, that no such paragraph appears in the speech, and that the three sentences put together make up a paragraph which wholly distorts the meaning of the speech; and that I may set myself right before the Senate and the country, I shall send to the secretary's desk, and ask to have three paragraphs, which I have marked, read from that speech, in which, if any three sentences bearing the meaning of the three I have read appear at all in the whole speech, they will be found. I ask the clerk to read the three short paragraphs which I have marked, to show what was the general character of the speech, and to show that the senator from Massachusetts, in attributing that language to it, and saying that it contained such a paragraph, wholly misconceived the general scope and design of that speech. It was not, as he assumed, a disunion speech; it was not a speech

showing that I was seeking the disruption of the Union; but, on the contrary, in all its amplitude, so far as my feeble ability could make it, it was emphatically a Union speech. I do not come here now, nor did I stand in the House of Representatives in 1850, as the especial and particular defender or eulogist of the Union. I am content to feel and know, in my heart of hearts, that I am for the Union; but I never was one of those who believed that the Union was to be saved by singing pæans to its fame or to its glory. It is to be saved by other means, if it is to be preserved at all. I do not care to detain the Senate. I want to set myself right; and I ask that those three paragraphs be read.

The secretary read as follows:—

“Throw an impartial eye over the history of the last twenty years, and answer me if there is anything there which challenges our devotion? Who does not know that time after time we have turned away in sorrow from your oppressions, and yet have come back clinging to the Union, and proclaiming that, ‘with all her faults we loved her still.’ And you expect us to do so now, again and again; you expect us to return, and, on bended knees, crave your forbearance. No, you do not; you cannot think so meanly of us. There is nothing in our past history which justifies the conclusion that we will thus abase ourselves. You know how much a high-toned people ought to bear; and you know full well that we have borne to the last extremity. You know that we ought not to submit any longer. There is not a man of lofty soul among you all who, in his secret heart, does not feel that we ought not to submit. If you fancy that our devotion to the Union will keep us in the Union, you are mistaken. Our love for the Union ceases with the justice of the Union. We cannot love oppression, nor hug tyranny to our bosoms.” \* \* \* \*

“I tell you candidly, we have calculated the value of the Union. Your injustice has driven us to it. Your oppression justifies me to-day in discussing the value of the Union, and I do so freely and fearlessly. Your press, your people, and your pulpit may denounce this as treason—be it so. You may sing hosannas to the Union—it is well. British lords called it treason in our fathers, when they resisted British tyranny. British orators were eloquent in their eulogies on the British crown. Our fathers felt the oppression, they saw the hand that aimed the blow, and they resolved to resist. The result is before the world. We will resist, and trust to God and our own stout hearts for the consequences.” \* \* \* \*

“I repeat, we deprecate disunion. Devoted to the Constitution—reverencing the Union—holding in sacred remembrance the names, the deeds, and the glories of our common and illustrious ancestry, there is no ordinary ill to which we would not bow sooner than dissolve the political associations of these new states. If there was any point short of absolute ruin to ourselves, and desolation to our country, at which these aggressive measures would certainly stop, we would say at once, go to that point and give us peace. But we know full well, that when all is obtained that you now ask, the cormorant appetite for power and plunder will not be satisfied. The tiger may be driven from his prey, but when once he dips his tongue in blood, he will not relinquish his victim without a struggle.”—*Congressional Globe, Thirty-First Congress, first session, page 259.*

Mr. BROWN. In a single word, I want to say that that speech was pronounced in 1850, calmly, deliberately, upon full consideration. It has been extensively criticised since, in my own state and in the papers, North and South. I stand in the presence of the American Senate tonight to say that I endorse every word and syllable of it, and am prepared to vindicate it; but I do not stand prepared to be charged with having uttered alone and without connection the language quoted by the senator from Massachusetts. All of us know how easy it is to snatch out a sentence here and a sentence there, from a speech, and put them together and make up precisely what the speaker never intended to enunciate. Take the speech in all its amplitude, and I see nothing in it of which I feel ashamed; nothing which I am not prepared to endorse in this or any other presence.

I stand here to-night prepared to say, in the connection in which I then used the language, that we have calculated the value of the Union. We calculated it, as I then said, to ascertain how much oppression we could bear before we threw it off. I do not belong to that school of politicians who believe that the Union is paramount to everything else. I put the rights of the states above the Union; I put the sovereignty of the states above the Union; I put the liberty of this people under the Constitution above the Union. All these were above it in the beginning; to all these the Union in the beginning was subordinate; and, so far as I have power, it shall remain subordinate. I can feel a proper degree of devotion to the Union without feeling that all power is concentrated in the Union, that it is paramount, that the states must succumb to it, that the sovereignty of the states must pale in its presence, that the liberty of the people must bow down in the august presence of this Union. I believe no such thing, and will act upon no such principle. The Union was made by the states; it is subordinate to the states; and, within its proper sphere, I will stand by it and make as many sacrifices as anybody else to maintain it. But I will sing no pæans to the Union. I do not stand here as its especial and particular eulogist. The rights of my state, the rights of my oppressed section, are worth more to me than the Union. I have said so before, here and at home. I say so now; and, if that is to be disunion, let it be so.

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## COMMODORE PAULDING'S ARREST OF WALKER.

SPEECH IN THE SENATE OF THE UNITED STATES, JANUARY 7, 1858, ON THE PRESIDENT'S MESSAGE RELATIVE TO THE ARREST OF WILLIAM WALKER.

THIS question, Mr. President, stands where I have apprehended for the last three or four days it would stand. The President of the United States disapproves of the arrest of Walker, and excuses it. He disapproves of it on the ground that the arrest was in violation of law; and if it was, I hold that he has no right to excuse it. If Commodore Paulding had the right to arrest Walker in Nicaragua, his conduct ought not only to be excused, but it ought to be applauded. If, however, he had no legal right to do that act, the President of the republic owes it to the people, whose president he is, to condemn it.

If Walker has been guilty of any violation of law, and has been arrested and brought back to our shores as a fugitive from justice, why is he not put in the clutches of the law? Why is he brought to New York, placed in the hands of the marshal, brought here, and offered to the government, and then set at liberty? Why is he not carried to Louisiana by the same authority which arrested him, and there put upon his trial on this charge of violating the law? Sir, this is a farce being played out before the American people, disreputable to all who are engaged in it. There has been no violation of law. Those who have

trumped up the charge against Walker know, that there has been no violation of law. If they believe that he has violated the law, then they are grossly derelict in duty in not returning him to Louisiana, that he may be tried under the law and convicted of the offence whereof he stands charged. But he is not sent there, and that is an admission that he is not guilty, and that a conviction cannot be procured. Then he has not been brought here to answer to any indictment; for if he has, I charge again that those who brought him here are not discharging their duty.

Now, sir, I hold this to be true: that the fitting out of an expedition in violation of the neutrality laws, is one thing; that the voluntary expatriation of a citizen, is altogether another and a different thing. If Walker has fitted out an expedition against Nicaragua, or any other country at peace with the United States, he has violated the law; but if he has girt his arms about him and voluntarily gone aboard a ship going to the coast of Nicaragua, avowing to all the world that he was going there to wage war against the government, I hold he had the right to do so. In that there is no fitting out of an expedition. I hold it to be my right under the law, to-day, to take my musket upon my shoulder, go and tell the President and his Secretary of War, his district attorneys, and his marshals, everywhere, that I mean, thus accoutred, to go and take part against Nicaragua, and they have no power to arrest me. If one has the right to go, two, three, four, five, or even five hundred have the right in the same manner, each going upon his individual account.

I will tell you, sir, where I think the mistake in this whole matter lies. The government is attempting to punish what the law never contemplated should be punished—the intention to fit an expedition beyond the limits of the United States made of materials gathered within the limits of the United States. The expedition must be fitted out here; it must be fitted upon your soil; it must be an entirety, before the law takes cognisance of it. I hold that each individual has the right to go away, and that you have no power to arrest him. The intention to go beyond the limits of the United States, there to fit and equip an expedition, is not a violation of the law. You have in this District a law punishing the intention to go beyond the limits of the District of Columbia to fight a duel; but, until you had that law, parties did go beyond the limits of the District, and did fight duels, without being amenable to your anti-duelling law. It is your last anti-duelling law that takes cognisance of the intention, and punishes it. So, sir, if you had a law to punish the intention to take the material from the United States to fit an expedition beyond the limits of the Union, you might get hold of Walker—for that is all that he has done. He has gathered his material in New York, New Orleans, and Mobile, and perhaps other points; he has taken them man by man beyond the limits of the Union, and there fitted out his expedition, and gone to Nicaragua. In that, there has been no violation of law, because there is nothing in the law to punish the intention to fit an expedition, if the expedition was fitted beyond the Union.

I have a word to say, now, as to the conduct of these naval officers. I have as high a regard for the navy, I think, as any other citizen; I honor its exploits in every conflict in which we have been engaged; but

if anything can bring reproach, eternal disgrace, upon the navy, it seems to me that it is this precise transaction. First, we have Commander Chatard, who lets Walker pass him; and then, seeming to have a glimmering of an idea that he had mistaken his duty, he undertakes to recover his lost ground by resorting to all the little, petty, low, dirty, mean attempts that could be invented, to insult him in his camp; evidently, by his own letter, trying to provoke Walker into a conflict, that he might have an excuse to fire upon him. Then Commodore Paulding comes up; and he, a man of ripe years, who might be supposed to know something of his duty under the law, does what all the world knows, and what I need not repeat here, and does it in the most ungracious way. He writes to the government, admitting that he had no instructions to do what he did; but, assuming that Walker and his men were pirates and outlaws, he writes such a letter as ought eternally to fix the seal of disgrace and condemnation on him. His letter, in my judgment, is a disgrace to the epaulets which he wears upon his shoulders.

While I am on this point, I may as well say what I feel and think; that it is high time our naval officers should be confined within the discharge of their duties according to law. There is too much disposition to exceed the law, by one and all of them. In my opinion, the President—and no man knows better than he how reluctantly I say so; but I will say what I think, let the consequences be to myself, or anybody else, what they may—would better have discharged his duty to the law, and to the best interests of the country, by pointedly rebuking the lawless act of Commodore Paulding, than by excusing it. Looking everywhere, I see naval officers disposed to exceed their authority. You cannot send one of them abroad to perform the slightest commission, but he gets beyond his instructions, launches into the open sea of extravagance, and entails upon you any amount of expense and trouble.

I am not going into that question; but I could point out instance after instance where this has been the case. It is high time that naval officers should be restrained within the letter of their instructions, and made to feel and know that they must obey the law. The way to make them do it, is not to follow out the advice of the President, and say that the act of Paulding was in violation of the law and then wink at it. That will but encourage a still further violation of the law. I would prefer seeing it punished—summarily and properly punished. It is one of those offences against the laws of the country which demand punishment. The President cannot excuse it on the ground that Nicaragua does not complain. It is not for us to violate our laws when Nicaragua does not complain, and to excuse them when she does complain. Our duty is to the law. If Paulding has discharged his duty according to the law, let him be applauded; and if he has not, let him be condemned.

It is no excuse to me, to say that Nicaragua does not complain. That suggestion opens up a wide field for investigation. I might reply that Walker had been invited into that country to take part in a civil war, that the party with whom he acted had triumphed, that he was lawfully elected president of the republic of Nicaragua, that his government *de facto* had been recognised by the United States; and that, by the interference of another naval officer, he had been brought out of the country.

True, it was said then that it was a matter of grace to him. How that was, I am not now going to inquire. But he was here claiming to be the rightful president of the republic of Nicaragua. Patriotic men—not lawless and piratical men, as is now charged, but patriotic men—in the Southern and Southwestern States, in the Western and the Northern States, said: “We will join you, and go and help you to snatch back again the rights which have been lawlessly taken from you.” I might go into all that, and show that Walker, the recognised *de facto* President of Nicaragua, was but pursuing, as he had a legal right to do, the recovery of that which had been lawlessly taken from him when he was thus arrested. But all that is unnecessary in this stage of the investigation, the present point being as to whether the President ought to say that Commodore Paulding had violated the law, and then undertake to excuse him for violating it.

If this principle is to be carried out, the execution of the law is to depend on the outside opinion of the executors of the law. If the Executive thinks the violation of the law, in that particular instance, was right, he is to wink at it and let it go unwhipped of punishment. He is only to punish the offender when, in his judgment, the thing was wrong intrinsically. I do not understand that to be the proper obedience to law, nor a proper execution of law. If it can be shown that Paulding acted within the law, either written or unwritten, then let him be excused; but if not, then let him be condemned, whether we applaud his conduct or not. I might think it a very good thing to have some fellow killed that I thought better out of the world than in it; but suppose the assassin goes and puts the dagger in his heart; am I, as judge on the bench, to say to him, “My dear fellow, I cannot exactly say you did right in killing him, because you violated the law; but, inasmuch as I think the rascal ought to have been killed, I will let you go.” That will not do. Such logic as that brings us to the end of all law.

For these and other reasons which I may take occasion to assign hereafter, I cannot endorse this message. I am exceedingly reluctant to dissent from any views expressed by the President, and especially so in the present condition of our public affairs; but I care not who is president; when doctrines are promulgated in antagonism to what I believe to be right, I will express the conviction of my own mind.

Upon this point I will do the senator from Illinois [Mr. Douglas] a little justice. While I did not agree with him in anything that he said, I did admire his spunk in standing up and saying plump out what he thought on the Kansas question.

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On the same day Mr. BROWN continued the debate as follows:—

MR. BROWN. On the subject of Captain Paulding's ancestry I desire to say a word. He is said to be the son of the Paulding who took part in the arrest of André.

MR. MALLORY. I did not say he was the son.

MR. BROWN. I have seen it stated elsewhere that he claimed to be the son. I do not know what other illustrious ancestors he may have had to which the senator alluded.

MR. MALLORY. He is descended from the Paulding that captured André. What relation he is I do not pretend to say.



Mr. BROWN. Whether he be a son or grandson, a nephew or grand-nephew, has, in my judgment, nothing on earth to do with this inquiry. His ancestor did well, did nobly. The question we have to inquire into now, is as to what Paulding himself has done. Has he acted within the limits of law? I understand the senator from Florida to admit that he has not; and yet he undertakes to excuse him on the ground of his illustrious ancestry.

Mr. MALLORY. My friend will excuse me for interrupting him. In the few remarks he addressed to the Senate he said that in making the arrest Commodore Paulding had acted in a most ungracious manner, and that he had entailed disgrace on his epaulets in doing so. That he had performed the arrest in an ungracious manner, which I presume to mean an ungentlemanly, or unhandsome, or rude manner.

Mr. BROWN. I would ask my friend from Florida whether he has carefully read the letter of Commodore Paulding to the government, in which he charges piracy, lawlessness, buccaneering, and everything else in the whole catalogue of naval offences against Walker and his men.

Now, sir, I have the same authority for saying that the men who were under General Walker's command had rendered distinguished services to this country, which the senator has for saying that the ancestors of Paulding had rendered essential service. I undertake to say that there were men in that command who not only risked their lives, but shed their blood in defence of the American flag, in the late war with Mexico; and yet this man Paulding, whose highest claim seems to be that he has descended from illustrious ancestors, has the audacity, in an official communication to the government, to charge these men with piracy, with buccaneering, with lawlessness, and with all the offences in the whole catalogue of crimes. Upon what evidence? Where is the authority upon which these charges are based? Is there any indictment against Walker for piracy? Is there any charge against him for piracy? Does it rest upon anything else than the mere declaration of Commodore Paulding, in an official communication which has been sent to Congress by the President, thus to be incorporated into the everlasting archives of the government, to live through all time to come?

I say that when Commodore Paulding so far forgets his duty as thus lightly to charge piracy, and buccaneering, and lawlessness, and other high offences, against men who have distinguished themselves in the military service of the country, he does disgrace his epaulets, and ought to have them torn from his shoulders. If there be any indictment against Walker or any man under his command, show it, point to the court where it is; but if there be not, upon what authority does this man Paulding dare to arraign him before the American people and the world as a pirate? I know not how far my judgment may weigh against that of the descendant of the Paulding who captured André, but whatever it is worth, I venture it here, that Walker is not only not a pirate, not a buccaneer, but that he is a man that has violated no law. Put him upon his trial before a fair jury of the country, and my life upon it he will be acquitted. He will be acquitted in Louisiana; he will be acquitted in Florida; he will be acquitted in New York; wherever he can get a fair and impartial trial according to the laws of the country, he will be set at liberty. My complaint against Paulding is, that he makes the charge without proof; and my complaint against the Presi-

dent is, that he sends it to the Senate and gives to it the high endorsement of the chief magistrate of this great nation.

The senator from Wisconsin [Mr. Doolittle] says that Walker is charged with levying war against a foreign government. By whom is he so charged? Where is the evidence of it? Is there an indictment pending? Is there a well-established charge anywhere but by public rumor? I meet the charge by saying that Walker was but endeavoring, as others have done, to recapture his lost rights. After Louis Philippe was expelled from France, if he had undertaken to regain his throne, this government would have had the same right to interpose and arrest him that it had to interpose and arrest Walker. Louis Philippe was driven out by violence. If he had attempted to go back to France to regain his lost privileges, no one would have pretended that the government of the United States had a right, by military force, to arrest him; yet, for the life of me, I cannot see the difference between an arrest in that case and the one before us.

But, says the senator from Wisconsin, Walker was a citizen of the United States. That he was a native of the United States, I grant; but did he claim the protection of your flag—did he claim to be a citizen of the United States? So far from it, he was arrested under the flag of Nicaragua. If he had been arrested under the flag of the United States—under the banner of the stars and stripes—there would have been some excuse for it; the excuse might have been based on the ground that he was abusing the flag; but he was under a foreign flag, and claimed its protection. Putting himself under that flag, proclaimed to all the world that he had expatriated himself, as he had a right to do. He was not then a citizen of the United States, nor did he claim to be.

I understand that while I was temporarily absent from the Senate some time ago, the senator from New York expressed some very erroneous views in reference to the positions I took in the few remarks which I had the honor to submit in the early part of this discussion. What I said, if not with entire distinctness, I had hoped with sufficient clearness to be understood, was, that a citizen of the United States has a right to expatriate himself, that there was no power in the executive government to prevent his doing so, and that in leaving the country he had the right to bear arms. These propositions being true, I illustrated them in my own person by saying that I had the right to shoulder my musket and shake hands with the President, telling him I was going to Nicaragua, or any other country, to take part in a civil war, and that he had no right to molest me. I said every other citizen of the republic had precisely the same right.

I have supposed heretofore it was one of the chief glories of this country, that our people did take part in these contests for liberty. The earliest and most brilliant efforts of "the great commoner," the illustrious Clay, were the powerful orations which he pronounced in the House of Representatives in favor of the South American states, then struggling to throw off the despotism of Spain. His speeches in defence of Grecian liberty were no less distinguished for eloquence and intensity of patriotism. What did all those speeches mean if they were not an appeal to the young and ardent patriotism of Americans to go and help to fight those battles for liberty? Who does not recollect the struggle in Texas, when the illustrious sage of the hermitage, obeying the laws

of his country forbidding the fitting out of expeditions, issued his proclamations? He determined to enforce the law, but he never dreamed, and, with all his heroism, never dared to arrest any citizen who had armed himself with a view to go and join my venerable friend [Mr. Houston], then fighting the battle of liberty in Texas. Did Jackson ever dare to usurp power? I appeal to you, sir, and to senators around me, what would have been thought of the "old usurper," as his enemies called him—Andrew Jackson—if he had dared to send a naval force to arrest Sam Houston, President of Texas, and bring him back to the United States? Would there not have been a universal burst of indignation throughout the republic? If it might not have been done under Jackson, I want to know by what warrant the same thing is done under the rule of James Buchanan.

Mr. MALLORY. I did not rise to enter into the debate, as I before observed, and expressed no opinion on any question involved, except the remarks of my friend from Mississippi. His remarks now show that I have vindicated Commodore Paulding from his assertion that he did not make this arrest ungraciously, and that he did not, by the arrest or its manner, entail disgrace on his epaulets. I do not defend the assertions of his letter. I concede it is bad taste in any official to use epithets towards others; it will not strengthen his case. But my friend from Mississippi will recollect that there is a high example in the authority of the Commander-in-Chief of the armies and navies of the United States, the President himself, a few years ago.

Mr. BROWN. I beg to correct my friend. I hope I was not understood as speaking of the ungracious conduct, in that particular, of Commodore Paulding. I spoke of the ungracious conduct of Commander Chataud, who wrote insulting, taunting, insolent notes to Walker, meaning nothing but to provoke him into a conflict; but I did not, in that connection, charge like conduct on Commodore Paulding. When I came to speak of his note, or of his official communication to the government, in which he spoke of Walker and his men as being pirates and outlaws, marauders, buccaneers, and all that, then I characterized him as having done an act, the character of which I mentioned.

In reply to Mr. PEARCE of Maryland Mr. BROWN said:—

My friend from Maryland seems to assume the whole matter in controversy, that Walker came to the United States to set up an expedition. That I deny. I deny that he set up any expedition within the limits of the United States; and if there be proof of it, I call for the proof from those who charge the fact. What I admit is, that Walker came here, complained, as any foreigner had a right to do—as Kossuth did, and as other men have done—of their wrongs, and that those who sympathize with him, as they had the right to do, joined his standard and went beyond the limits of the United States, without getting out an expedition, each man acting upon his own responsibility, and each one avoiding for himself any infraction of the law. If there was an expedition fitted out in the United States, I admit there was a violation of the laws; but if my friend from Maryland charges it, I ask for the proof—not that I would demand any proof of any charge of his; but, technically, I ask on what ground he bases the charge.

On the 21st of January, 1858, Mr. BROWN continued the debate in reply to Mr. DOOLITTLE, of Wisconsin, as follows:—

I have listened to the speech of the honorable senator from Wisconsin with some pleasure and some profit. I gave notice the other day of my purpose to move an amendment to his resolution. That amendment will indicate distinctly to the Senate how far I differ from the senator who has just resumed his seat. I send it to the table, and ask to have it read.

The secretary read the proposed amendment, which is to strike out all after the resolving clause, and insert the following:—

That Congress has heard with surprise of the arrest of William Walker, and about one hundred and fifty other prisoners, at Punta Arenas, in Nicaragua, by Hiram Paulding, commanding United States naval squadron, on the 8th day of December, 1857; and seeing that said act was in violation of the territorial sovereignty of a friendly power, and not sanctioned by any existing law, Congress disavows it; and being officially notified that said Paulding acted without instructions from the President or the Secretary of the Navy, Congress expresses its condemnation of his conduct in this regard.

Mr. BROWN. Mr. President, if I had any prepared, set speech to make, I should, of course, prefer making it on some other day than this; but I have not. What I have to say can as well be expressed in five or ten minutes as in as many hours. It will be seen that the proposition which I submit contains very few and very plain suggestions. I first assert, in the amendment, that Congress has heard with surprise of the arrest of William Walker and his associates, about one hundred and fifty in number, without giving to Mr. Walker any style. I do not even call him General Walker. I do not give to the people who were with him a habitation anywhere, but speak of them as they were—as persons. I claim that that is a truism in point of fact, that when the intelligence reached us, Congress was surprised. Is there a man who hears me now that does not respond to that declaration, that he was surprised by the intelligence that this arrest had been made?

When I take the ground that it was done in violation of the territorial sovereignty of Nicaragua, I do not undertake to locate the sovereignty, or to give it any particular designation or direction. I simply take the ground that the sovereignty is somewhere; that it does not belong to us; that by invading it we violated it. Nicaragua is, beyond all question, no part of the United States. It is a foreign territory. Commodore Paulding, with an armed force, landed on the shores and made arrests, in violation of the sovereignty of that territory. I care not whether the sovereignty be in William Walker, as its legitimate President, or in the party who now claim it, or anybody else. It is a discovered country; the sovereignty rests somewhere, but beyond all dispute it is not in the United States. When we landed there with an armed force, and made arrests, we violated the sovereignty. I care not in whose person it may exist, or who has the right to control it for the time being.

The next proposition is, that the act was not sanctioned by any existing law. I listened to the speech of the honorable senator from Wisconsin, to hear under what law this act of Commodore Paulding was to be justified. The President tells us, in the very outset of his message, that it was a "grave error" on the part of Commodore Paulding. He does not pretend, in his message, to justify it on any legal grounds—

although he undertakes to palliate the offence, as I conceive it to be, of the commodore. I have listened, but I have listened in vain, for a suggestion from some quarter, which would show that there was lawful authority for this act. The senator, it is true, has read to us from Vattel and Puffendorf, and other writers on international law, but all his authorities point to cases not at all like this. He has read us no authority from Puffendorf, or Vattel, or any other writer on international law, nor can he, which shows that you have the power to land on the shores of a friendly country and make arrests; to arrest the man who has been recognised as the president of the country by your own government, and bring him away. William Walker was recognised as the *de facto* President of the Republic of Nicaragua. If there has been a legitimate and fair election in the country, it was in the case of Mr. Walker. At an election fairly conducted he was chosen president of the republic; but he is arrested by a military force from the United States, violently dragged from his country, brought here, and then set at liberty.

I am glad that the senator, in his anxiety to give a medal to Commodore Paulding, has not undertaken to justify the use of such violent expressions as that Walker and his men are pirates, and outlaws, and buccaneers. These expressions interlard the whole of the despatches from Commodore Paulding; and he puts his own defence on the ground that these men were pirates. He who perhaps understands, and has studied most deeply the ground on which he stands, undertakes to defend himself on the hypothesis that Walker was a pirate, and that his followers were pirates. If they were, I demand to know by what authority the President of the nation turned loose a pirate in the city of Washington? I demand to know by what authority one hundred and fifty pirates were turned loose in the peaceful streets of Norfolk? The defence has failed—wretchedly failed.

The President tells Congress in his message that he had no authority to hold Walker and his associates; that they were amenable, if at all, to the judiciary of the country, and to nobody else. Great God! sir, has the President no power to order a pirate to be held in custody? Shall it be set up here in the Senate that the President can send an armed ship, or an armed fleet, to Nicaragua, arrest a pirate upon a foreign friendly soil, bring him to the United States, and when he gets him here, just at that point his power ceases? This is a wretched, miserable pretext. I am glad to see that the pretext that Walker was a pirate, that his followers were pirates, is not defended in the Senate. The President has rightfully enough ignored the charge. He thinks Walker has violated the law; that he has committed a misdemeanor; that he is responsible to the judiciary of the country, to whom he quietly hands him over. But all this does not come to the point suggested in my amendment, that this arrest was not sanctioned by any existing law.

If it was in violation of the territorial sovereignty of a friendly power, and was not sanctioned by any existing law, then does not my conclusion follow as a matter of course, that Congress must disavow it? That is all I ask you to do, up to that point; to disavow that which is in violation of the territorial sovereignty of a friendly power which is not pre-

tended to be sustained by any existing law of your own country. I continue:—

And being officially notified that said Paulding acted without instructions from the President or the Secretary of the Navy, Congress expresses its condemnation of his conduct in this regard.

I put the condemnation expressly on the ground that his lawless act is disavowed by the President and the Secretary of the Navy. If they had avowed it, I would have directed my censure to a higher mark. If they had avowed it as an act of the government, I should have asked Congress to pass a vote of censure against the Secretary or the President, or whoever gave the order.

We have fallen, sir, upon strange times, and, in my judgment, have sadly departed from the lessons taught us in the earlier, and, I might add, better days of the republic. In 1822, Commodore Porter, who wore his epaulets and bore his sword with distinguished credit, was sent in the command of a squadron to the Gulf of Mexico, and ordered to cruise in the West Indies and the waters of the Gulf, in search of pirates. He was told, as the authority before me shows, clearly and distinctly, that he might pursue the pirates on land; that they were the enemies of the human race; that all civilized men were combined against them; but he was told, at the same time, that he must not pursue them in violation of the local authorities of any country. He might continue the pursuit until he should be bidden to give it up, and then he must cease. In 1824, it was ascertained by Lieutenant Platt, one of the subordinate officers in that squadron, that a large quantity of goods had been stolen from Saint Thomas, and probably carried to Foxardo, in the island of Porto Rico. Lieutenant Platt pursued, and having accumulated such evidence as satisfied him that the goods were secreted at Foxardo, he landed with a view of finding them. Some persons not authorized to arrest his progress, forbade his pursuing them; but being informed by others that these were not persons in authority, and seeing, therefore, that he was not violating the letter of his instructions, he went forward. He found the officer of the port, who received him cordially. He found the alcalde, who received him cordially, and promised him assistance. While he was actually engaged in a search for the stolen goods—goods stolen, not by imaginary, but real pirates—the alcalde suddenly changed his mind, seized the lieutenant, thrust him into prison, and heaped divers insults and outrages upon him. Commodore Porter, receiving intelligence of these events, went to Foxardo and landed a military force, with a view of demanding reparation for the insult offered to the American flag, borne by Lieutenant Platt, under the circumstances which I have named. It became necessary to spike some guns; but no blood was shed, no gun was fired. The alcalde, on a sort of promise from Commodore Porter, that he should be protected in the exercise of his lawful authority, and that there was no purpose to subjugate him, at once came out and said frankly, "I have committed this outrage under compulsion, by orders."

Commodore Porter was acting strictly within the letter of his instructions, as he claimed, and as I believe, from very recent investigations of all the papers; but it suited the Spanish authorities to complain of him. He was at once relieved from his command, and ordered home to be put upon trial. After being detained here for weeks and weeks, the Admi-

nistration in the mean time having undergone a change, Mr. Monroe having gone out and Mr. John Quincy Adams having come in, Commodore Porter complained of the delay. He filed a letter with the President, and perhaps two or three with the Secretary of the Navy, complaining of the delay which had occurred in his trial. Finally, he was put on his trial before a naval court-martial. He was convicted and sentenced to six months' dismissal from the service of the United States. Here was a gallant officer, covered over with scars, entitled to stars, orders, and medals, arrested by the order of his government because he had landed upon a friendly soil, and undertaken to make arrests, not of imaginary, but real pirates—people who were confessed to be so; not only relieved of his command, but brought back to the United States in disgrace, put upon his trial, convicted, and sentenced.

While I do not stand here to defend the harsh proceedings in that case, I instance it for the purpose of showing what measure of justice was meted out in the earlier days of the republic, in comparison with that which the senator from Wisconsin proposes to mete out to Commodore Paulding. Here was a man acting within the letter of his instructions; but the Administration had undergone a change. He had been told that these people were the enemies of all mankind. President Monroe had two or three times complained in his communications to Congress of the want of efficiency in the Spanish authorities. He had called on Congress to nerve the arm of the Executive to chastise these depredations on our commerce in the waters of the Gulf of Mexico. Mr. Monroe had declared to Commodore Porter, through Mr. Smith Thompson, then Secretary of the Navy, in express terms, that in pursuing the pirate he might land upon any soil, but that he must not—mark you—continue the pursuit after persons in authority should forbid his doing so.

Lieutenant Platt claimed that he had not violated that instruction; that he had lived up precisely to the very letter of it; that when told by persons not in authority to cease the pursuit, he had determined to do it until he was informed that these people were not authorized to give any such command; that he then proceeded, that he was received cordially by the commander of the port and by the alcalde, persons in authority, who promised him their assistance; and then in the midst of all that he was thrown into prison, charged himself with being a pirate, his flag insulted, and himself derided. Then Commodore Porter landed, as I have said before, for the purpose of chastising this insolence, and was promptly met by an apology. On these general facts, I say again, he was arrested, tried, convicted, and sentenced, and the sentence was carried into execution. Now, with a case before us, where a commodore, according to the Secretary of the Navy and the President, is acting clearly beyond his instructions, without authority, landing upon a foreign soil, without any sort of shadow of authority from the President or Secretary, making important arrests, we are called upon to vote him a medal.

There is another point in this transaction: Commodore Porter was tried, among other things, for insubordination in writing insolent letters to the President and Secretary of the Navy. I have the letters before me, but do not care to weary the Senate by reading them; but let senators take the letters of Commodore Porter in 1824 and 1825, and

compare them with the insolent productions of Commodore Paulding addressed to the present Secretary of the Navy; and answer me whether, if Porter was tried, convicted, and sentenced for writing such letters as he wrote, what ought to be done with Commodore Paulding for writing such as he has written? I am not here to say that Paulding ought to be punished for writing an insolent letter to the Secretary of the Navy. If the Secretary does not think proper to vindicate himself, he may go unvindicated; I shall not stand here in his defence. What I say is, that we are falling upon strange times, when a commodore—a flag-officer—can write to the Secretary of the Navy, and actually reprimand him. Take his letter and read it. It is an actual reprimand, addressed by a commodore in the service to the Secretary of the Navy, saying, in effect, “Sir, you foggy, you nincompoop, you are meddling with a matter you know nothing about; let me and my command alone.” The Secretary of the Navy writes back very complacently that he did not really mean to reprimand him; but, after all, he thinks he has some authority; and he rather thinks he has the right to dispose of the naval force as he pleases. It was not so in other days. If that letter had been addressed by Commodore Porter, or by any of the older commodores, to such a Secretary as Smith Thompson, or Samuel L. Southard, he would have been arrested, he would have been tried, he would have been convicted, and he would have been punished. If the present Secretary of the Navy does not think proper, however, to vindicate his official honor, he can let it alone; it is none of my business.

The question with which we have to deal is, whether we will vote Commodore Paulding a medal for these services. Just think of it. The joint resolution proposes that the President have a medal, with suitable devices, presented “as a testimonial of the high sense entertained by Congress of his gallant conduct.” Great God! Commodore Paulding, commanding as many, perhaps, as one hundred guns—I have not made the estimate of it, but there were certainly so many—having disposed of them at his leisure, with five or six hundred men, captures—what? Walker and a handful of filibusters, who laid down their arms at the very first summons, and made no sort of resistance upon paper or anywhere else, and Congress is called upon to vote a falsehood—that in this there was extraordinary gallantry! I know very well that the commodore, writing home to the government, says that all his men behaved with extraordinary gallantry. Why, sir, I suppose the next thing will be, if our army should approach Salt Lake, and all the Mormon men should be away, and they should make a desperate charge and capture all the women, they must all have medals for their extraordinary gallantry. [Laughter.] It would be a much more gallant act than this act of Paulding, and one much more deserving a medal.

I object to this resolution, because it is not true in point of fact. It is asking Congress to vote a falsehood—I beg the Senator's pardon; I do not mean it in any offensive sense—but it is not true in point of fact that Paulding has displayed any gallantry. There was no occasion to display gallantry. Who does not know that at the very first instant, upon his summons, Walker and his men laid down their arms? They did not even threaten to fire. The gallant heroes, with Commodore Paulding at their head, walked upon the shore and then walked back



again; and for that, Congress is to vote a deliberate historical falsehood, that they have displayed extraordinary gallantry!

Then their conduct is said to have been "judicious." Judicious in what? Judicious in obeying his instructions? I thought it was the duty of officers, naval and military—nay, sir, I thought it the first duty of a soldier—to obey the letter of his instructions.

Then we are asked to assert that all this was done "in arresting a lawless military expedition set on foot in the United States." That assumes the whole matter in controversy. I undertake to say that the expedition was not lawless, and that no facts have been presented to show that it was so. Even the enthusiastic senator from Wisconsin admits the right of expatriation. He would claim for himself at this very moment the right to leave the country, to swear allegiance to any other government; and in going, to bear arms upon his person, would he not? Is there a senator here; is there an American citizen who listens to me at this moment, who would not claim for himself the right to leave his country, to expatriate himself, to swear allegiance to any other government, and in doing so, to bear arms on his person? Did Walker, or any of those supposed to have been under his command, do anything more? They went, and they went with arms in their hands, as they had a right to do, as the President admits, as every senator that has yet spoken admits, and as the senator from Wisconsin claims that he would have the right to do. Then, by what authority is it called lawless? Have men acted in a lawless manner in doing that which all of us claim we have a right to do? Is there any lawlessness in doing that which every man insists every American citizen has a right to do, and which you may not hinder under any existing law, and for the hinderance of which you never will pass any law through Congress?

It is assumed that the expedition was set on foot in the United States. Where is the evidence of it, sir? Where is the proof? I deny it! I say the fact is not as stated. I say there was no expedition, lawless or otherwise, set on foot in the United States. I admit that persons who were born under our flag and entitled to the protection of our laws, went voluntarily, every man acting on his own responsibility, with arms in their hands, with a view to assist what they claimed to be the rightful government of Nicaragua, in the person of William Walker. This, I claim, they had the right to do. It was no expedition set on foot. It was a body of American citizens, each man for himself, acting for himself, and on his own responsibility, doing precisely what, under the law, he had a right to do. When they got beyond the limits of the United States, if they organized an expedition, and placed William Walker, or any other man, at the head of it, I claim that they did only what they had a right to do, and for the doing of which they were in no manner responsible to the laws of our country. If the doctrine can be maintained, that we are overseers of the high seas, that our police jurisdiction extends everywhere—not only on our own soil, and within our own waters, but upon the high seas, even to Nicaragua, and every other country—then I grant you there may have been some violation of law; but I claim that your jurisdiction is confined to the soil and to the single marine league, and for the purposes of the commercial law, three marine leagues; and by no stretch of law, by no stretch of imagination, can you carry it beyond three marine leagues. It being admitted that

Walker was not only off our soil, but without the jurisdiction of the waters over which we hold control, not only not upon the water, but actually upon the soil of a foreign country; and there being no evidence that any expedition was fitted out or set on foot on our soil, within our jurisdiction, or on the high seas; and the expedition, if it existed at all, was found on a foreign soil, then I claim that that declaration in the senator's resolution, is not true in point of fact. It is a simple, naked declaration, which Congress is asked to vote, but which is not sustained by any evidence on God's earth.

I said, Mr. President, at the outset, that I had no regular prepared speech to make. In reference to the case of Commodore Porter, to which I have alluded, I have forbore to read the correspondence, the letters, and instructions, because I did not care to consume the time of the Senate; but the facts are as I have stated them, as proven by the volume before me, to which I have turned my attention, and given some study. If we are to vote Commodore Paulding a medal, I hope it will be done for reasons which are at least true in themselves. If we are to vote censure against him, I want it to be done for reasons which are true. If I have not stated the reasons correctly in my amendment, on the suggestion of any senator I will modify or change them. I think they are rigidly correct, strictly and emphatically correct in every particular. I intended they should be so. If I am mistaken, I shall listen to the suggestion of any senator, and change it until the facts and the legal positions are stated correctly; but I cannot stand by quietly and see a proposition introduced and gravely urged here, to vote a medal to an officer for violating the laws of his country, for doing that which the President tells us was a "grave error," and which has not been, and cannot be, defended on any grounds, legal or moral.

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## INCREASE OF THE ARMY.

SPEECH IN THE SENATE OF THE UNITED STATES, FEBRUARY 1, 1868, IN  
FAVOR OF AN INCREASE OF THE MILITARY DEPARTMENT, TO  
PUT DOWN INDIAN HOSTILITIES IN THE WEST.

It is with extreme diffidence, Mr. President, that I venture to express any opinion in reference to a matter like this. It has already passed under the supervision of gentlemen who are qualified, by education and by practice, to give opinions in reference to it; and it is more for the purpose of expressing my concurrence in the opinions of others, than to express any convictions of my own, that I have taken the floor at this time.

I know, very well, sir, that if we fail to act here, and act efficiently, we assume a very high responsibility. Last year the President, and the Secretary of War, gave us fair warning that the military establishment of the country was too small, too feeble, to protect our frontiers. After a session of nine months, we adjourned without having done anything towards its increase. This year we are told in the official papers from

the President, and the head of the War Department, in terms too distinct to be mistaken, that, in consequence of our neglect to follow out their recommendation, valuable lives have been sacrificed upon the frontier, emigrants to California and to the territories have been murdered in cold blood; our little military force at Fort Laramie was utterly destroyed; other disasters have overtaken us, and our arms have been disgraced and literally rendered contemptible in the eyes of the Indians. I do not pretend that I state the case precisely as it is stated by the Executive; but this is the conclusion which must impress itself upon your minds, if you study the documents. Now, sir, we have been asked to do what? Simply to increase the military establishment to the amount proposed by my friend from Illinois, in the amendment which has just been agreed to? No, sir; we have been asked to increase the permanent military establishment of the country; and we have been asked, in addition to that, by the President and the Secretary of War together, to raise three thousand volunteers to meet the present exigencies. The question arises, do we mean to do that? I understand now, sir, that the volunteer proposition has been withdrawn by the Committee on Military Affairs—withdrawn because it seemed to receive no favor at the hands of the Senate.

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What I want to do is to follow out, as nearly as I can, the recommendation of the President and the Secretary of War upon this matter. A good deal has been said here about registering the edicts of the President and of the executive officers. I think, sir, considering how long I have been here, I have given about as many evidences that I am indisposed to register mere edicts as any other senator. But here is an instance in which we are bound to presume that the Secretary of War understands our relations with the Indian tribes better than we can possibly understand them. Why? Because it is the business of his department to understand them. He has to post the army, and so to govern it as that it shall be most efficient in the defence of our frontier.

I think, under such circumstances, that very great deference is due to his views upon this subject. If we fail, in a mere spirit of obstinacy, or from any other cause, to vote the number of men which, we are told by the President and head of the War Department, is necessary to protect our frontier, how shall we answer to the country in case of disaster? When the Indian shall light up his camp-fires, draw his scalping-knife and tomahawk, and commence a war of universal murder upon our frontiers; when the wail of women and children shall come up to the Senate, appealing to us, what answer shall we make? That, because we were careful of trusting the Department to which the responsibility properly belongs, we refused to vote the necessary force to defend them. Sir, I shall, by my vote here, take no such responsibility. When the ghosts of murdered women and children stalk into this chamber, I mean to have it in my power to say:—

“Thou canst not say, I did it; never shake  
Thy gory locks at me.”

If others are willing to take the responsibility of denying the means of defence, then let the blood of our murdered people be upon their skirts. But we are told that if we send a volunteer force, a war will be

almost inevitable. Sir, I do not know whether that is true or not. I do not profess to be a military man. I do not know which is the more efficient force. I do not know which could be best controlled in the field; but I do know that the President of the United States informed us, in a message which he sent to us a few days ago, that a volunteer force is the one which he wants. I do know that the Secretary of War has called upon us for three thousand volunteers, and that he has stated to us that it is the only force which can be called into the field in time to meet the approaching emergency. He has told us that these Indians are combining. He has stated the effective Indian force, if my recollection serves me correctly, to be forty thousand men, and that hostilities, in all probability, will commence early in the spring. What are you doing? Are you voting him the force which he says is absolutely necessary for the protection of your frontiers? No, sir; you are withholding that force, and saying to him:—"If you send out the volunteers, then we shall inevitably have war." Thus, you are not providing for the emergency which he tells you is at your door.

I have not read the extracts from the message, and other papers bearing upon this point; but I have stated their contents correctly. We are officially notified that the regular army, though it were entirely full, would not answer the present purpose; whereas, the Secretary of War tells us in his annual communication, it now numbers only about eleven thousand men, including officers and soldiers. If it were entirely full it would only be a little over fourteen thousand, according to his calculation, and about eleven thousand effective force is all that you really have at any time. He tells you in plain and distinct terms that this force is insufficient to protect your eight thousand miles of frontier. The work is more than they can perform; and he asks for a permanent defence of the frontier, a permanent increase in the military force of the country.

He tells you in plain terms, and the President has endorsed that statement—that the volunteer force is absolutely necessary to meet the present emergencies. Now, let me ask the Senate again, if you refuse to vote this force, and if, in the early spring, the Indians shall fall upon your frontier and murder your women and children, pillage your towns, and devastate, and lay waste the whole frontier, how shall you answer to your constituents for the manner in which you refused to carry out the recommendations of the executive government, and the following out of which recommendation we are told is absolutely necessary to keep peace there?

Mr. President, I think well of the proposition to send out a commissioner. I think well of it, because it strikes my judgment as being right, and because it is backed by the experience of the mover of the proposition, and the veritable senator from Michigan, whose familiarity with Indian affairs is greater than, I trust in God, mine will ever be. I would send such a commission. I would send with it a sufficient military force to protect it in its negotiations. I would, at the same time, authorize the President of the United States to prepare immediately a military force, or a volunteer force, to meet the emergency if it should arise. I am not, in my conscience, and according to my honest convictions, permitted to receive mere declarations of opinions, coming from senators here, in opposition to the expressed opinion of the executive

government, and upon a question of this kind. I am bound to presume that the Secretary of War understands his duties better than any one else can understand them. This I say without any sort of disparagement to the intelligence and military learning of any gentleman here or elsewhere. If it be the business of one man to study one subject; if he lend to it the whole energies of his mind, am I saying too much when I declare that, if I had to follow the lead of any one, I would rather follow the lead of such a man than one of equal intelligence, whose attention is divided among a hundred different subjects?

Considering that the proposition for raising the three thousand volunteers had been withdrawn, I had prepared an amendment, and meant to move it as an addition to that of the senator from Illinois, which has just been agreed to.

I propose the following amendment:—

*"And be it further enacted,* That to meet any sudden emergency, growing out of our relations with the Indian tribes, the President is authorized to accept the services of any number not exceeding three thousand volunteers, to be organized into companies, squadrons, and battalions, and to serve for a period of eighteen months, unless sooner discharged; the said volunteers to be armed and equipped, and to serve on horse or on foot, as the Secretary of War, with the concurrence of the President, may direct.

*"And be it further enacted,* That the said volunteers shall receive the same pay and emoluments in all respects as were paid to the same class of volunteers in the service of the United States, in the war with Mexico."

I am not going to make a speech, because I know the Senate is tired of that sort of work; but I want to show, before the vote is taken upon the amendment, by reading a very few extracts from the President's message, and the communication of the Secretary of War, how near the amendment approaches to their recommendation. The Secretary of War, in his letter dated January 15, 1855, says:—

"Should the proposed increase—[that is, the permanent increase]—of the army be authorized during the present session, it is hoped that the two additional regiments of cavalry may be organized, mounted, and put in position to relieve the volunteers sometime during the summer or fall; and the two regiments of infantry recruited and organized for service in the department of the Pacific, and on our extreme north-western frontier, where troops are greatly needed."

If I understand, the amendment which we have adopted, on the motion of the senator from Illinois, meets that portion of the recommendation. It will raise the two regiments of cavalry and two regiments of infantry. So far so good. What are we told further? After being admonished that we have been called upon time and again to provide for this emergency, the Secretary says:—

"Had the increase of the army, which was urged in my report of December 1853, been, at an earlier period, authorized, the force at the disposal of the department would have been sufficient to prevent these combinations, [that is, the combinations among the Indians], and, in all probability, would have preserved the lives of many valuable citizens from Indian massacre. This measure, however, has not been acted on, and at this advanced period, should the bills now pending in Congress be passed, it will be found too late to organize a regular enlisted force, and place it in position in season to prevent the anticipated attack, or to suppress it until after much mischief shall have been done."

I read that to show to the Senate that the Secretary of War does not look to these two regiments of infantry and two of cavalry to meet the emergency which he has called upon us to provide against, for he tells you

in plain language that if you authorize that increase "now," that is, on the 15th of January, 1855, it will be too late to meet the emergency which he anticipates. Then what further does he say? Mark the strong language which he uses:—

"*The only course* now left to the department, in anticipation of the proposed increase, is the employment of a volunteer force to coöperate with such of the regular troops as can be collected for the *present emergency*, and it is accordingly recommended that authority be asked of Congress to call into service three thousand mounted volunteers, to be organized into companies, squadrons, and battalions, and to serve for a period of eighteen months, unless sooner discharged."

The amendment which I propose is to carry out that recommendation; and is in the very words of it, with the single exception that I do not confine it to mounted men, but allow the President and Secretary to call out three thousand volunteers, or so many as may be necessary to meet the emergency, either as mounted men or as foot men. He may call out such portions of them as the emergency may seem to require. What does the President tell us?

"I transmit herewith a letter of the Secretary of War upon the subject of Indian hostilities. The employment of volunteer troops, as suggested by the Secretary, seems to afford the only practicable means of providing for the present emergency."

Now, sir, is the recommendation of the President, and of the Secretary of War, to weigh not a feather upon our judgments in this matter? Are we totally to disregard the advice of those whose business it is to watch narrowly our relations with the Indian tribes, and tell us of approaching emergencies? If we intend to be governed by advice coming from the quarter pointed out by the law to give us advice, then the Senate, I insist upon it, is bound to adopt the amendment which I have proposed, because in no other way can we meet the emergency which has called forth the special message from the Executive, and the recommendation from the War Department. You are told, in plain language, that if you vote two regiments of infantry, and two regiments of cavalry, you will not have provided for the emergency. The only way, says the Secretary, the only way, adds the President, to meet the emergency, is to give us volunteers. As I stated before, I do not want to feel, nor do I want any one to charge upon me, that, by virtue of my having failed to discharge my whole duty, the blood of murdered women and children is on my skirts. The President and the Secretary have told us that this is the only means—mark the language—the only means of providing for the emergency; yet we propose to legislate in total disregard of their recommendations; and senators rise in their places and tell us they are not bound to register the edicts of the Executive. No, sir; they are not; nor am I. I would scorn to register any man's edicts, whether he were King, Emperor, Potentate, or President. But I stand up here to-day to say that the President of the United States and the Secretary of War must have information on this subject which we cannot have; and I think, with all due deference to the superior judgment and greater cultivation of other gentlemen on this subject, it is rather a flippant way of disposing of so important a recommendation, to say that we will not register the edicts of the Executive. As I remarked before, sir, and if there is anything of which I feel proud as an American senator, it is that, I have shown, on all proper occasions, that I do not register edicts. I dare to think and act for myself; and if I do

so, I shall certainly blame no other senator for it; but I appeal to them if it is possible they can have the information on this subject which must be in the possession of the President and the Secretary of War—especially in the possession of the Secretary of War, whose sole business, almost, it is, I repeat again, officially to look into our relations with the Indians?

No other war is apprehended. The whole military force is upon the frontier; and doubtless the Secretary keeps a close eye on the proceedings of the Indians, and of all others in that direction; and when he tells us, on his responsibility as Secretary, and when the President of the nation endorses his declaration, that there is imminent danger of outrages upon the frontier, and that the only means of providing against them—yes, sir, the *only* means of providing against them—is the volunteer force, shall we refuse to vote it? Why? Why, sir, upon the hypothesis, upon the bare supposition, that a volunteer force sent there will be more likely to bring on a war than anything which can occur. Sir, adopt the amendment, and the President will not send his volunteer force there to bring on a war; if he does, he will violate the law which will give the volunteer force. The amendment says that, to provide for any sudden emergency which may arise out of our relations with the Indian tribes, the President be authorized to accept the services of the volunteers. I take it for granted, then, that there must be, under the language of that amendment, a pre-existing emergency; hostilities must actually have commenced before he will be authorized to call out the force. He will not be authorized by it to call them out in anticipation of outrages.

But suppose that war shall commence; suppose that the forty thousand Indians west of the Mississippi—and that is the number stated by the Secretary of War to be there—shall, in any considerable numbers, combine to wage war upon our frontier during the long vacation of Congress, which is almost commencing, how is it to be checked by the slow process of recruiting, by the slow process of getting men into your army for the period of five years? Why, sir, what amount of butchery, what amount of murder, what amount of rapine, may not be committed upon that frontier before you can put a military force there to protect it?

My venerable friend from Michigan [Mr. Cass] says it is utterly impossible to combine thirty thousand warriors; they could not subsist, they would need the means of support. So they would if they were all in one army, but that is not the mode of Indian fighting, if I understand it. They go out in small bands and attack a single settlement, lay it waste, and then retreat. I have no expectation that they are going to meet you in large numbers, in bodies of ten, fifteen; and twenty thousand, if they go to war with you at all; but in little bands, penetrating every point on the frontier.

But, as I remarked, I did not get up to make a speech on the subject, but simply to call attention to the fact that the amendment is as much necessary to carry out the recommendation of the Executive as was the amendment offered by the senator from Illinois.

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MR. SHIELDS. Will the honorable senator permit me to ask him, in all seriousness, if he has the least idea that we can carry through four regiments and three thousand volunteers?

Mr. BROWN. I do not know why we should not. That is what the government asks for. That is what we are assured is necessary for the defence of the country; and, judging from the experience of the past, I am to conclude that whatever the government says is necessary for passing events, the Congress will vote. When majorities of the two Houses of Congress have been opposed to the existing Administration, they have not hesitated to vote the supplies necessary for the defence of the country; and, shall I be told that now, with an overwhelming majority in favor of the Administration in both branches of Congress, we shall refuse to vote those supplies? I think my friend from Illinois has not looked into this thing with that astuteness which he usually employs in the investigation of questions.

Every argument, every suggestion, which approaches my mind, tends to the conviction that Congress will, if the Administration stands up and insists that it is right we should do so, vote all that is asked. Four regiments as a part of the permanent establishment are asked for, and it is eminently proper, in view of the eight thousand miles of exposed frontier. You are told in plain English that your present establishment, even if full, which it is not, would be insufficient for the defence of the frontier; and an additional force is asked. How much? Four regiments. My friend from Illinois proposed the four, and the Senate agreed to it. But, then, in addition to that, you are told that we want volunteers to meet an anticipated immediate emergency. The government is evidently looking to an outbreak early in the spring. It says it has not a sufficient permanent force, and it cannot avail itself of the proposed increase of four regiments in time to meet the anticipated emergency. The amendment does not require the President to call out three thousand volunteers. It imposes no obligation upon him to do it. It simply authorizes him to do it, if it shall be necessary, and, of course, to disband them as soon as they cease to be useful. What does he ask?

“Should the proposed increase of the army”—

says the Secretary of War—and, mark you, his communication is endorsed by the President—

“be authorized during the present session, it is hoped that the two additional regiments of cavalry may be organized, mounted, and put in position”—

to do what, sir?

“to relieve the volunteers some time during the summer or fall.”

There you are plainly told that the two regiments of cavalry, provided for by the amendment of the senator from Illinois, are to relieve the volunteers who are to be called out on a sudden emergency. Very properly the Secretary of War has concluded that he cannot avail himself of these regular troops in time to meet the emergency which he anticipates in the spring; and he asks for volunteers to supply the service until he can get the regular force into it. He tells you in plain English, that as soon as he can organize the regiments, which you are now proposing to raise, he will send them to take the place of the volunteers; and my amendment proposes to authorize him to dismiss those volunteers whenever he chooses to do it. He cannot take them for a longer period than eighteen months; and he may discharge them when he pleases.

Now, sir, if I can get the attention of my friend from Delaware [Mr.



Clayton] a moment—he, in common with other gentlemen, seems to anticipate that if you send volunteers into the country you must necessarily have war. I do not anticipate that the volunteers are to be sent there until you do have war. There must be an actual subsisting state of war, before the emergency arises which authorizes the calling out of the troops; but I repeat—for I take this to be a matter of vast importance to the country, one which the Senate ought well to consider—if the Secretary is right in his anticipation that the Indians are going to commence hostilities very early in the spring, and that the only way of meeting them is to call out volunteers, shall you not put that sort of force at his disposition which he asks for, in order to meet the emergency? My friend from Texas tells you that you cannot organize these regiments until the fall. Suppose war breaks out in the spring—then what? Are the Indians to go unchecked through the whole summer until you can organize the regular regiments which are to constitute a part of the military establishment of the country? That is what the volunteers are asked for. If no emergency arises, the President will not call them out.

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## ADMISSION OF MINNESOTA.

SPEECH IN THE SENATE OF THE UNITED STATES, FEBRUARY 1, 1858, ON THE  
ADMISSION OF MINNESOTA AS A STATE.

I APPRECIATE, sir, the suggestion made by the senator from Illinois, that in discussing a question relating to the order of business, we had better not wander so far off as to discuss everything; and in the remarks which I shall submit on this occasion, I shall not allude to Kansas further than is necessary to illustrate the views I have in reference to the point before us, which is, whether this subject ought to be considered now, or whether it had better be postponed to a subsequent day.

At the last session, Congress passed what was termed an enabling act for Minnesota; such an act as the senator from Illinois has assured us was, in his judgment, absolutely necessary to enable a territory to form a constitution preparatory to coming into the Union as a state. He notified us, in his opening argument on the Kansas question, that a territory could do nothing which it was not authorized to do by the enabling act. If that be true, and there have been in Minnesota those irregularities which gentlemen on all hands admit to have existed, I submit whether the enabling act amounts to anything. If it be necessary to pass an enabling act, there must exist a necessity for obeying the act after it is passed; and that seems, in the case of Minnesota, not to have been done. What is the necessity for an enabling act, if the territorial legislature and the people of the territory do not regard the act after it is passed? As I understand the case before us, there is no pretence that the enabling act has been obeyed by the authorities in Minnesota.

But, says the senator from Massachusetts, these defects were cured

by the subsequent action of the people. I say again, if there was a necessity for passing the enabling act, and nothing could be done till it was passed, then I want to know how it is that the people of a territory can cure defects which must have been fatal in themselves, except upon the ground which we take in reference to Kansas, that the power emanates from the people, that no enabling act is necessary, that when the people have acted they give vitality to the constitution, and whether it is made in obedience to an enabling act or not, is of no consequence; and because of these arguments, we desire to see these two states brought in together. I want to know whether my honorable friend from Illinois means to take the ground that an enabling act is necessary, and when the act has been disregarded, vote for the admission of Minnesota, and then vote to exclude Kansas because in that case there has been no enabling act. When he does that, I wish him to do it altogether, so that the two things may stand in such juxtaposition that the whole country may see what he has done.

I raise no question in reference to the enabling act, or that the people have disregarded it. I think the act was unnecessary. If I had known the full tendency of it, I should have opposed it on other grounds than those on which I placed my opposition last year. I think, when the proper time comes, I shall be able to demonstrate that no such act is necessary. The senator from Illinois, however, takes a different ground. He says the act is necessary. Then, I say, admitting his premises, there is a necessity for obeying the act. What! an enabling act totally disregarded, and defects cured afterwards by a popular vote, and admit the state; and in the next breath tell us that Kansas cannot come in because there is no enabling act for her! If there be such power in the people of Minnesota, that they may not only make a constitution without an enabling act, but in violation and total disregard to it, I shall want to know, at the proper time, why the same rule does not apply to Kansas?

But the senator from Massachusetts tells us, as an argument why we ought to act at once on this subject, that the legislature has gone on, and that the governor chosen under this constitution not yet acted on by Congress, has been signing laws, and that a secretary, whose existence under the constitution has not been recognised, has been countersigning them. I should like to inquire of the senator if these laws are put in force there. Are the laws thus signed by a governor unknown to Congress, and unknown to the president in a territory, enforced in Minnesota?

Mr. WILSON. I cannot tell whether those laws are enforced or not. I have heard of laws, some dozen or twenty, I think, passed, not by the territorial legislature, but by the legislature elected under the constitution, and signed by the secretary of the territory as acting governor.

Mr. DOUGLAS. He is acting governor in the absence of the governor of the territory. They are signed by him as acting governor.

Mr. BROWN. I did not precisely understand it. I supposed the governor elected under the new constitution had signed the laws.

Mr. DOUGLAS. No, sir; but the secretary of the territory, as acting governor.

Mr. BROWN. I did not know but that you were getting back to the days of Topeka, and that some such man as Governor Robinson was signing laws there. All I desire to add is in reference to a remark

uttered by the senator from New Hampshire. If Kansas is to be excluded, under the circumstances mentioned by the senator from Virginia, he expressed the hope that the number of states never would exceed thirty-one. Am I mistaken?

Mr. HALE. Yes, sir.

Mr. BROWN. Will the senator repeat what he did say?

Mr. HALE. Yes, sir. I said that if the senator from Virginia was correct in announcing that that was to be a test, that the admission of Kansas, under all the objections which exist to her, was to be made the price of the admission of any state from any quarter, it would be a great while before our numerical number of states would exceed thirty-one. That is what I said, exactly.

Mr. BROWN. That varies it a little, but, I think, not a great deal. I can say, however, to the senator from New Hampshire, that, if one rule is to be applied to Kansas, she asking admission as a slave state, and she is to be excluded on that rule, and then, when the same rule applies to Minnesota, she is admitted notwithstanding the rule, the number of states never will exceed thirty-one. If you admit Minnesota and exclude Kansas, standing on the same principle, the spirit of our revolutionary fathers is utterly extinct if the government can last for one short twelve-month. I am sure you will not do it; I entertain no serious apprehension that you are about to do it; but I do not understand this impatience, this exceeding anxiety to force Minnesota into the Union. When we know that Kansas will be asking for admission, as the senator from Virginia has already announced, certainly this week, and possibly to-morrow, why this exceeding haste to put Minnesota ahead? Do Republican senators hope to have two more senators on this floor to aid them in the exclusion of Kansas? Is that what they are driving at? If it be, I trust there is a firmness and decision on this side of the House that will resist to the bitter end the consummation of any such design. I know nothing of the views of the two honorable gentlemen asking admission on this floor as senators from Minnesota. I know not upon which side of this question they will vote. I know them to be honorable men, as all of us know them to be. But when I find such exceeding anxiety on the other side of the Chamber to bring them in, I expect that gentlemen look for some aid and comfort from that quarter. They would hardly manifest such exceeding zeal in getting in two additional senators, if they believed they would vote against them, when they came in, on the vital question of the session. I do not know that they will vote against us; I do not state that they will; because, on that question, I know nothing; but I would rather try this question before the old Senate, without the addition of any new material. Whether we can carry it is another proposition. What will result to the country if we fail, I pretend not to say. I hope I may not be misunderstood on that point. What I say is, that if you admit Minnesota, and Kansas applies substantially on the same grounds, you must not exclude her. If Kansas be excluded on account of irregularities in the formation of her constitution; then let Minnesota be excluded for the same reason, and there will be peace all over the country. Nobody in my section will complain, for an instant, that you apply the same rule to the one that you apply to the other. Our point is, that you shall not apply

one rule for the admission of a free state, and then exclude a state asking admission as a slave state on the same principle.

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In a few remarks submitted by me in the earlier part of the debate, I assumed that the senator from Illinois had taken the ground that an enabling act was necessary to a territory in the formation of a state constitution. I based that declaration on his opening speech in the debate, in which I thought I was not mistaken; and upon recurring to the speech I find that I was right. I do not know that the senator expressed himself in the precise language in which his maturer judgment would require him to express an opinion; but in that speech, beyond all question he did take the ground that an enabling act was necessary. That speech is the one upon which I based my remark, and I was not aware that he had qualified it in such broad terms as he states to-day that he has done in the debates which followed. I have in my hand a copy of that speech. Said the senator:—

“A territorial legislature possesses whatever power its organic act gives it, and no more. The organic act of Arkansas provided that the legislative power should be vested in the territorial legislature, the same as the organic act of Kansas provides that the legislative power and authority shall be vested in the legislature. But what is the extent of that legislative power? It is to legislate for that territory under the organic act, and in obedience to it. It does not include any power to subvert the organic act under which it was brought into existence. It has the power to protect it, the power to execute it, the power to carry it into effect; but it has no power to subvert, none to destroy: and hence that power can only be obtained by applying to Congress, the same authority which created the territory itself.”

Now, sir, according to the senator, when the territorial legislature provides for forming a constitution, that is an act of subversion. It is a subversion of the organic act, because it proposes the substitution of altogether a different form of government; and I understood the senator to say distinctly in that speech that that could not be done (for that was the point in controversy) without applying directly to Congress for the power to do it; in other words, that when the territorial government was to give way and a state government to be substituted, that could be done by the authority of Congress, and in no other manner. Upon another page of the same speech, the senator, after speaking of Arkansas again, used this language:—

“If you apply these principles to the Kansas convention, you find that it had no power to do any act as a convention forming a government; you find that the act calling it was null and void from the beginning; you find that the legislature could confer no power whatever on the convention.”

Why? Because it had not been authorized by Congress; there was no enabling act. The act of the legislature calling a convention, said the senator, was absolutely null and void from the beginning. It could be null and void but for one reason, and that was, that Congress had not authorized it. A territorial legislature can do nothing, said the senator, which the organic act does not authorize it to do; and if it undertakes to substitute one form of government for another, it must come to the source of its power, to Congress. If I have been led into an error from not exactly keeping up with the debates in the Senate, or not reading or listening to all the speeches of the honorable senator, I hope I shall be excused. I based my remarks on the reading of this speech, which has unquestionably been more extensively read than any other speech

delivered at this session, by the senator or anybody else. I am glad he makes the correction. I am glad he comes forward, and says in terms which are not to be mistaken—and it is to that point, and to vindicate myself, that I rose now—that an enabling act is not necessary.

I return my thanks for that declaration. We have the senator's authority, and it is a potential authority in the country, that no enabling act is necessary. He goes further, and tells us that the act of submission is not essential. Not only does he say now, and I thank him for saying so, I repeat again, in terms so plain that the whole country will understand, that an enabling act was not necessary—but he says that a submission of the constitution to the people was not necessary. That gets us clear of two troublesome propositions in the discussion of the Kansas question. Let us hear no more of this argument, then, anywhere. If the great chieftain gives up the question, I take it for granted that the subalterns will do it of course, and that hereafter we shall hear no more that Kansas does not present herself properly, because there was no enabling act; and we shall hear no more complaint of Kansas that she did not submit her constitution to the people.

The senator tells us to-day that neither the one nor the other was necessary. All we have to inquire now is, as to whether the constitution she is about to present is the work of her people. What the people desire is to be expressed through the ballot-box. The will of the people, what they desire, is to be ascertained through the ballot-box; and, as I now understand the question, if we shall be enabled to show that the people of Kansas, expressing their will through the ballot-box, under the forms of law, have organized this constitution, then we have nothing beyond that to establish. Two points, I want it noted, are now out of the question—no enabling act is necessary, and no submission of the constitution to the people is necessary. All you are to learn is, whether it is the will of the people.

Then the point which I submit to the senator for his reflection is simply this: Has the will of Kansas been ascertained in the mode and manner prescribed by the laws of the land? Has the ballot-box been thrown open? Have the people been allowed to vote freely? If they have, then I claim that they stand on as good a footing before us to-day as does Minnesota. I ignore the proposition, if it shall be made from any quarter, that you shall compel them to vote whether they will or not. I am glad to see the issue narrowing down; I am glad that we are to have no question except the simple one, is this the work of the people of Kansas? We are not to be embarrassed with vague ideas about enabling acts, or about propositions to submit constitutions to the people. All that is out of the way from this time on. All we have to inquire is, as I said before, has this constitution been made by the people of Kansas, and have we ascertained that fact under the forms of the laws of Kansas? I think, when the proper time comes, we shall be enabled to show that, in the mode pointed out by the law, the fact has been ascertained that the people of Kansas do sustain the constitution.

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On the 25th March, 1858, Mr. BROWN continued the debate on the admission of Minnesota as follows:—

I am very desirous to vote for the admission of Minnesota. We stand agreed, honorably bound, to admit her, and I shall regret exceedingly

if anything be put into this bill which shall forbid me recording my vote in favor of it. I must say, in all sincerity, that I do not like this proposition to give Minnesota three representatives. I understand that you are to take a census of the population as a starting point, and then that your authority is to apportion your representation according to the population. I do not understand that it is within the province of Congress to guess the population of an old or a new state, and apportion its representation on mere guess-work. If you are going to guess for Minnesota, why not guess for all the states? If you were about to apportion the representation among other states, and I were to come in here as a representative, and say, the "census was incorrectly taken in my state; I tell you that I believe we have one hundred thousand people more than the census shows," are you to depart from the rule prescribed by the Constitution, and not to apportion the representation according to the census, but according to the guess of a representative from a state? and if so, where are you to drift to? But, sir, this does not happen to be guess-work coming from Minnesota; it is guess-work outside of the state, and made up on the loosest possible calculation. One senator tells us the number of votes, and makes a calculation on the supposition that there are six members of a family to every voter, and thus he brings up the population to two hundred and forty thousand. What sort of a way of taking a census is that? Did the framers of the Constitution ever dream of ascertaining the population of a state by any such rule?

Then, sir, when you come to look at the state, what is it? A new state, to which young and enterprising men have gone, leaving the women and children in the older state, as they always do. Six to a family may be a very good estimate for Rhode Island, or Connecticut, or Virginia, but it is an over-estimate for any new country on the face of the earth; because to such countries men go, and the women and children stay at home. You have got no such population there. This is a proposition to give to Minnesota a representation in the other House of Congress to which her population does not entitle her—a proposition to unhinge the balance of representation between the states, and to give to one state an advantage over the other states. I protest against it. The census shows that Minnesota has a population of a little over one hundred and forty thousand. Making a liberal estimate for the three counties from which no return has been made, she probably has one hundred and fifty thousand. For the first ninety-three thousand four hundred and twenty, she is clearly entitled to a representative. South Carolina has a representative for a fraction, and I believe California had one awarded to her for the largest fraction. The fraction in the case of Minnesota is even larger than that, and I am willing to vote her a representative for that fraction; but I will not vote a representative, *ex gratia*, on a population which she has not got.

Now that I am on this subject, and as I do not care to worry the Senate again, I may say that, while I shall vote for the admission of this state, desire to do it, mean to do it, and will do it—if you do not put something in the bill that absolutely drives me away from it—I want to do it because I wish to keep faith upon the slavery question. Minnesota comes here and asks for admission as a free state. I would yield more than I would in another case, lest I might be suspected of having broken faith on that point. I want to vote for it; I mean to do

it; I will do it, I say again, unless I am driven from it; but, in doing that, I wish now to say, that I am in no manner to be suspected of approving the constitution of Minnesota. If I thought my vote was thus to be construed, I never could record it in favor of the admission of this state. I do not approve her constitution. There is very much in it to which I object.

I object to the very provision which leads to this debate—that a state shall undertake to say in her constitution how many representatives in Congress she will have. She has no right to say any such thing. I object to other features of her constitution. I object to that clause which fixes the qualification of voters; and I undertake to say it is the most extraordinary that ever found its way into any constitution, state or national. Her constitution prescribes different classes of voters. The first is, “white citizens of the United States.” They might as well have said white male citizens, for I believe women are citizens. The next class is, “white persons of foreign birth, who shall have declared their intention to become citizens conformably to the laws of the United States on the subject of naturalization.” I object to that. Foreigners who have merely declared their intention to become citizens, in my opinion, ought not to be allowed to vote. What is an intention? It is a myth; it is nothing. A man may to-day have a very *bona fide* intention to become a citizen, but to-morrow he may have no intention ever to become so; and yet on making a mere declaration of such intention, a man is allowed to take part, not only in the elections of this state, but necessarily in the election of a President of the United States. I would permit no man to take part in the elections of this country who did not owe allegiance to the flag. Until he had sworn his allegiance to the government, and would be guilty of treason in case he took up arms against it, he should have no part or lot in the elections, with my consent. What right has a man who to-morrow may take up arms against your government, and yet commit no treason, to go to the ballot-box and take part in your elections? How many thousands, nay, how many hundreds of thousands of foreigners, unnaturalized, hostile to your country, to your government, and to your Constitution, might, under that clause, vote upon a mere declaration of intention? How are you to punish a refusal to carry out an intention? A man may swear to it honestly; he may swear to it corruptly; but whether honestly or corruptly, you can never ascertain. That is a secret locked up in his own heart; a secret which can only be seen by the eye of the all-seeing Power who ruleth above—a secret not seen of men, and, therefore, not to be punished by men.

That is not all. The next class of voters is, “persons of mixed white and Indian blood, who have adopted the customs and habits of civilization.” Is not that beautiful? An Indian who has adopted the habits of civilization is to be allowed to vote. I should like to know what amounts to adopting habits of civilization? I suppose if he put on a pair of pantaloons, a pair of spurs, and a shirt collar, he would then be a Georgia major; and if he got drunk, he would approximate to the highest degree of civilization. [Laughter.] Under that clause, there is not a breechless savage in all Minnesota that cannot be led up to the ballot-box and made to vote.

Mr. MASON. Will the senator allow me to make a suggestion?

Mr. BROWN. Certainly.

Mr. MASON. They possibly intended to model it on the old Scotch usage that I remember having read of in one of the ballads for indicating the approach of the Highland men to civilization—when they put on pantaloons and left off cattle stealing. [Laughter.]

Mr. BROWN. I do not know how that is; but the language is, "habits of civilization."

Mr. TOOMBS. I ask my friend from Mississippi, does he at all dispute the right of Minnesota to allow anybody she pleases to vote within her limits?

Mr. BROWN. No, sir.

Mr. TOOMBS. Then *cui bono* the argument?

Mr. BROWN. I am making it for the same reason that my friend from Ohio [Mr. Pugh] the other day moved his amendment to the Kansas bill—not that I think there is anything in it, but I want to keep down clamor. I do not want to be misunderstood on this subject. I do not want to be understood as in any manner approving these provisions of this constitution when I vote for the admission of Minnesota; and therefore I point them out and comment upon them, and file my protest against them, so as to exclude any such conclusion hereafter. That is my whole object in doing it. I said in the outset, that if I supposed myself responsible for this constitution, or am to be considered as approving it, I could not vote to admit the state. I do not believe that any state, old or new, ought to have any such provisions in its constitution. I feel that I have no power to strike them out; and if I had, my notion of state rights and state sovereignty is, that if Minnesota chose, she could put them back again to-morrow. I cannot control them; I can say, and will say, that I do not approve them. I do not say that I shall vote against this bill, even if you allow Minnesota three representatives; yet I do not well see how I can vote for it then, with my notions of what is right. I hope the Senate will do no such thing. Give Minnesota the two representatives to which her census entitles her, and then I think there can be no further controversy. If she has any right to ask another representative on guess-work, I do not know but that I shall ask another for Mississippi. She has been populating very fast, and has a great many more people than she had when the last census was taken. I know that census in many counties was imperfectly taken. Let us stick to the record; to the census, as made under the Constitution. Make your apportionment according to that, and you will always be right, or somewhere in the neighborhood of it.



## ADMISSION OF KANSAS.\*

SPEECH IN THE SENATE, FEBRUARY 3d AND 4th, 1858, ON THE ADMISSION OF KANSAS UNDER THE LECOMPTON CONSTITUTION.

WELL, Mr. President, I must say to senators that I intend to address myself to this question with as much deliberation as possible. I do not intend to occupy any extraordinary time; but as the evening is drawing on, if any of them choose to go away while I am speaking, and occupy their time elsewhere, I shall take it not at all unkind. What I have to say is not designed to influence the votes of senators, and especially not the votes of Republican senators. Like Ephraim, they are joined to their idols, and I shall let them alone. I may have something to say in the progress of my remarks which ought to have influence on the minds of Democratic senators inclined to differ with me in opinion on this question; but even if they do not choose to remain in the chamber, I shall not take it as at all unkind if they go away.

On a former occasion, I called attention to the fact that, at the beginning of the Kansas controversy, we expressly enacted that Kansas was to be admitted into the Union when she came to form her state constitution, with or without slavery, as her people should determine; that all of us who voted for that proposition thenceforward stood committed to the admission of the state. I asked then, as I ask now,

\* On the 23d of December, 1857, Mr. BROWN, in advance of this speech, made the following remarks:—

"I rise for the purpose of moving a postponement of this question, and I avail myself of the courtesy of the senator from Delaware to say that when the Senate shall meet again I shall have some views of my own to express on the matters involved in this debate. I desire simply to say now, on a single point, that I stand where I stood at the last session of Congress, and that nothing which transpired in Kansas on Monday last is to change my position. If the election on Monday was a fair one, as I hope it was, in which all parties were allowed freely and without hinderance to take part, and Kansas asks admission as a free state, I stand upon the record in favor of her admission. If, on the other hand, she asks admission as a slave state, I shall expect those who entered into the compact with us during the last session of Congress to abide by their pledges and vote for her admission.

"As I intend to speak on the question, I feel it due to myself to say this in advance of any intelligence from Kansas. Of what may have transpired there on Monday, of course I know nothing, and no one else knows anything; but whatever it may have been, I am prepared to stand by it, if the election has been fair; that is, if a fair opportunity was offered to all parties to vote. If my friends have thought proper to retire voluntarily from the polls and allow the election to go by default, that is their business and it shall not change my policy here. If, on the other hand, the friends of other gentlemen have absented themselves from the polls and allowed the election to go by default, they ought not, in my judgment, to change their policy. What I wish to be understood as distinctly saying is, that so far as those who had the management of the election are concerned, they should have held the scales of justice in equal balance between the parties, and if all who desired to cast their ballots according to law had an opportunity to do so, whether they exercised the right or not, is a question which shall not weigh a feather on my mind.

"Waiving that point, simply indicating that I have some purpose to express my views on the main question, if no other senator desires to ask the courtesy of the senator from Delaware, I move the further postponement of this question until the 4th day of January, when the Senate will again be in session."

whether it is fulfilling that obligation to resort to technicalities, to resort to special pleading, with a view of avoiding the force of the agreement? Republican senators are not committed to this view of the subject, because they voted against the bill. The Democratic senators are committed to it, because they stand on the record in favor of the bill.

I had further called attention to the fact that the National Democratic party, in council assembled at Cincinnati, solemnly reiterated this declaration, and made it one of the corner-stones of its political edifice; and, therefore, every member of that convention, and its nominees; every member of the party throughout the Union, stood solemnly committed to the same doctrine, that Kansas was to be admitted, with or without slavery, as her people should determine when they came to form a constitution. I had shown from the record that Democratic speakers, from that day forward, had on all proper occasions declared that they were prepared to redeem the obligation into which we had thus entered. I had inquired whether, this fact being true, we were now, on any system of pleading, to avoid the force of the contract?

Now, Mr. President, beyond all dispute, slavery lies at the bottom of all our difficulties on this territorial question. Whenever we are about to organize a territory over any portion of the domain lying South, this question arises; and it leads to long, animated, and angry controversy. On the other hand, whenever we are about to organize a territorial government over any of the domain lying North, it is done without controversy. Whenever we are about to admit a state in the North or Northwest, there is no controversy. Michigan was admitted, and Iowa and Wisconsin have been admitted, and other northern states have been brought into the Union, without any sort of objection on the part of southern senators and representatives. But when Arkansas and Florida and Texas were about to come in, we had a revival of these contests. More recently, we have had Minnesota and Washington and Oregon organized into territories—regions where slavery had not gone, and was not likely to go—and there was little or no controversy; but when we were about to organize the territories acquired in the war with Mexico, we had a renewal of these angry contests, the point of conflict being always the existence in the territories of domestic slavery.

The two territories that were organized together in 1854, Kansas and Nebraska, gave rise, for a time, to a joint controversy; but still the main point was in Kansas, as it has been ever since. Why? Because slavery had not gone, and was not likely to go, to Nebraska; while, if it had not actually gone, the probabilities were strong that it would go, to Kansas; and hence the whole controversy rested on that territory, there being an effort, on the one hand, to force the institution out of the territory, and there being a strong disposition, on the other, to stand by what we conceived to be the constitutional right of those who have the custody of that institution, to take it into the territories.

The question of slavery, Mr. President, has not only given annoyance to Congress and the country, but it has been the fruitful source of annoyance to political parties. It broke up the national Whig party. When the whole northern wing of that party became thoroughly abolitionized, the southern portion refused any longer to affiliate with them; the party was broken up. Out of its ruins and out of the dissensions in the Democratic party, rose the American, sometimes called the

Know-Nothing party—a party which perished almost as soon as it was born. The fragments of these dissolved or dissolving parties were gathered together in the Northern States, and constituted the Republican party—a party which has no existence, or shadow of existence, anywhere outside of the non-slaveholding states of the Union.

This being true, there remains for us but one party which can lay just claims to nationality; that is the Democratic party. But now the same element which broke up the Whig party, which prevented the formation of a great national American party, which has made the Republican party purely sectional, is at work for the destruction of the National Democratic party. If the destruction of that party shall be worked out, if it shall follow in the wake of its predecessors, then it is absolutely certain that the country will instantly be divided into two sectional parties. The whole North will unite as a northern party, and the whole South will unite as a southern party. When this shall be done, it requires no spirit of prophecy to foretell the result. When all the North is pulling in one direction, and all the South in a contrary direction, that the Union must be drawn asunder is as certain as that the sun rose this morning and will go down to-night.

With fearful consequences like these staring me in the face, and feeling the responsibility which rests upon me as one member of the Democratic party; seeing the imminent danger of its dissolution, and believing that bad men everywhere seek its dissolution, and to the end that I have pointed out, I approach the consideration of this question with extraordinary embarrassment; and as I intimated before, what I have to say is to be said rather to the country, and to that portion of it which I have the honor in part to represent, than to any one here.

I hope it will be understood here, as I am sure it is understood elsewhere, that this Union has no more devoted friend than I; that there exists not in all this broad republic one citizen prepared to make greater sacrifices than myself for its preservation. If I sometimes hesitate to go with those who claim to be, *par excellence*, the friends of the Union, it is because I doubt whether their policy does not lead rather to its disruption than its perpetuity.

Repeated efforts have been made to compromise the question of slavery in the new states and territories, and they have as repeatedly resulted in disaster. In 1819–20 there was an attempt to compromise it. The country had been wrought up to a state of very high excitement, and the political doctors of that day said that a sedative, a light draught, the compromise, known ever afterwards as the Missouri compromise, was all that the case required. Wiser men of that day thought it was a disease so deeply rooted that it required more powerful remedies. If I can say it without giving offence, I will remark that the advice of political quacks was taken, and instead of striking at the root of the disease, Congress undertook to settle it, to cure it by compromise, by the application of sedatives; and the compromise of 1820 was adopted.

Years passed on, and as other territory was asking admission into the Union, that happened which the wise statesmen of 1819–20 on the southern side of the question declared would happen. The North—Massachusetts among them, Massachusetts who, in the person of the senator, has stood up here to-day the champion of law and order—refused to recognise the binding force of the compromise. Though Arkansas asked

admission, lying clearly south of this compromise line, now so much revered and honored on the other side of the House, there was an attempt made to deny her admission, on the ground that her constitution tolerated slavery. We acquired subsequently the territories of California, Utah, and New Mexico. Proposition after proposition was submitted to extend the Missouri compromise line to the Pacific, and as often as it was submitted it was rejected by our northern friends. That compromise, then, was a failure, not recognised by anybody.

In 1850 it was considered necessary to compromise again. Then we were told that the philosopher's stone had certainly been found; that not only "the five bleeding wounds" had been cured, but that everything which could give rise to agitation in the future had been permanently settled, and the whole disease had been torn up by the roots, and from that day forward we should have no controversy on the subject of slavery. To me the compromise of 1850 was distasteful. I abhorred it from the beginning, and am perhaps one of the very few, if I am not indeed the only man in Congress who voted against it in all its forms, in all its features, and in all its parts.

Four years passed away, and it became necessary to compromise again. In 1854 we were told that the question had again got into difficulty, and it was necessary to compromise it a third time. The Senator from Illinois [Mr. Douglas] brought forward his famous Kansas-Nebraska bill—a bill which I propose now to consider. The main feature of that bill was the one so often quoted, that it neither designed to "legislate slavery into the territory, nor to exclude it therefrom, but to leave the people thereof perfectly free to form and regulate their domestic institutions in their own way, subject only to the Constitution of the United States." I need not say that this provision sprang out of an attempt to enforce the Wilmot proviso on the country, not only on the territory north of the Missouri compromise line, but on the territory south of that line. The contest was kept up for years in almost equal balance, the friends of the proviso insisting that they had the right, by congressional legislation, to exclude slavery, and we of the South on the other hand contending that we had the right under the Constitution, without the aid of legislation, to carry our slaves into the common territory; and that, having them there, we had the same right that gentlemen of the North had to demand protection for any property of theirs. I say the contest thus stood, and was kept up with various chances of success for several years. About 1848 what was considered by many as a most happy idea was hit upon—the doctrine of non-intervention. It was tried in the presidential election of that year, and had very many warm and zealous advocates. It was more successful in the contest of 1852; but it was not until 1854 that it was formally enacted into law. Then it received the sanction of Congress. No longer bandied about in political circles or resolved upon by vast political meetings, it received the high sanction of the Congress of the United States, and was enacted into a law.

It is hardly necessary for me to say that as an original proposition I was opposed to it. I belonged to that class of politicians who believed that a southern man had the same right to go into one of the common territories of the Union, and take with him his slave property, that a northern man had to go and take with him any other species of property.

I believed that I had the same right to go from Mississippi and take my slave property, that the senator from Massachusetts had to go and take anything which was recognised as property by the laws of his state, and that when I got it there, I was entitled to the same protection from Congress to which he was entitled for his property; or if the territorial legislature made the law, then the territorial legislature was under the same obligation to protect me and my property that it was under to protect the property of the senator from Massachusetts. That is what we asked, and it was all we asked. We had, however, no power to enforce a recognition of our claim, and the other side found themselves deficient of the power to enforce their idea of our total exclusion. After years and years of conflict, this idea was taken up that Congress would neither legislate slavery into the territory nor exclude it therefrom, but leave the people thereof perfectly free to regulate their domestic institutions in their own way. We passed the Kansas bill, and we stood in that bill solemnly committed to the ground that we would admit the state with or without slavery, as her constitution at the time of her admission should prescribe.

This was our last compromise; and now we are here, in less than four years after its passage, discussing again whether we are not to have another compromise. So far as I am concerned, and I speak for myself alone and for those who have authorized me by their commission to speak in their name, I am for no compromise; I am for the law as it is written. I accepted the compromise of 1854, I say, reluctantly in the beginning; but having accepted it, I made up my mind as a man of honor to abide by it. I am not prepared to see its force destroyed by any resort to special pleading, by any resort to miserable county-court technicalities.

Having said this, I come to the next point in the controversy. The law of 1854 was passed, under which Kansas was organized as a territorial government. A legislature was chosen for the territory; but before that election was gone into, movements were set on foot here, to which I beg leave, by way of reviving the recollection of gentlemen as to what is the true history of this transaction, to call attention. I find them set forth in the memorable report of the senator from Illinois, made to the Senate on the 12th of March, 1856. That senator stands opposed to-day to the admission of this state into the Union under a constitution formed, as I believe, and as I think I shall be able to show, by her people. The senator from Massachusetts undertakes, in the close of his speech to-day, to defend the senator from Illinois. It was not from that quarter that defence came in days gone by. If the senator from Illinois can stand a defence from that quarter, I have nothing to say in regard to it.

Mr. WILSON. Allow me to say a word.

Mr. BROWN. Certainly.

Mr. WILSON. I think the senator from Mississippi is entirely mistaken. I made no defence of the senator from Illinois. He is capable of defending himself here or elsewhere. I simply referred to the fact that the senator from Illinois, who introduced the Kansas-Nebraska act, who, for four years, has been the champion of that policy, the trusted leader of the senators who supported that policy, has paused, has refused to consummate a stupendous and gigantic fraud; and for that act he who has been their champion is now denounced from one section of the

country to the other, and threatened with being driven out of the party whose leader he has so long been. That is what I said.

MR. BROWN. I have no comment to make on that part of the Senator's speech: If it appears as it was delivered, I shall be quite content. But I desire to call attention to this controversy as it arose in Kansas, and to show high authority for the position which I take, that the Republican members in the Senate, and their friends in the states, were responsible for the first outrages committed there. It was because I intended to use the high authority of the senator from Illinois in this connection, that I alluded to him at all, and I was thus reminded that he had been but a few minutes before, as I thought, defended by the senator from Massachusetts. In the report of the 12th of March, 1856, to which I before alluded, the senator from Illinois said, as I believed at the time, and still believe, truly:—

"The passage of the Kansas-Nebraska act was strenuously resisted by all persons who thought it a less evil to deprive the people of new states and territories of the right of state equality and self-government under the Constitution, than to allow them to decide the slavery question for themselves, as every state in the Union had done, and must retain the undeniable right to do, so long as the Constitution of the United States shall be maintained as the supreme law of the land. Finding opposition to the principles of the act, unavailing in the halls of Congress, and under the forms of the Constitution, combinations were immediately entered into in some portions of the Union to control the political destinies, and form and regulate the domestic institutions of those territories and future states through the machinery of emigrant aid societies. In order to give consistency and efficiency to the movement, and surround it with the color of legal authority, an act of incorporation was procured from the legislature of the state of Massachusetts, in which it was provided, in the first section, that twenty persons therein named, and their 'associates, successors, and assigns are hereby made a corporation by the name of the Massachusetts Emigrant Aid Company, for the purpose of assisting emigrants to settle in the west; and for this purpose they shall have all the powers and privileges, and be subject to all the duties, restrictions, and liabilities set forth in the thirty-eighth and forty-fourth chapters of the revised statutes of Massachusetts.'

"The second section limited the capital stock of the company to \$5,000,000, and authorized the whole to be invested in real and personal estate, with the proviso that 'the said corporation shall not hold real estate in this commonwealth (Massachusetts) to an amount exceeding twenty thousand dollars.' \* \* \*

"Although the act of incorporation does not distinctly declare that the company was formed for the purpose of controlling the domestic institutions of the territory of Kansas, and forcing it into the Union with a prohibition of slavery in her constitution, regardless of the rights and wishes of the people, as guarantied by the Constitution of the United States, and secured by the organic law; yet the whole history of the movement, the circumstances in which it had its origin, and the professions and avowals of all engaged in it, render it certain and undeniable that such was its object."

This, then, was the commencement of the present controversy. No sooner had the Kansas bill passed, than a movement was set on foot, (as was charged by the distinguished senator from Illinois, and as I believed at that time, and still believe,) through the instrumentality of a certain secret circular, prepared and signed by some of the Republican senators—the then senator from Ohio, Mr. Chase, now governor of that state, the eminent senator from New York, [Mr. Seward,] and I believe, also, the senator from Massachusetts, not now in his seat, [Mr. Sumner]—which gave rise to this organization in Massachusetts, this Emigrant Aid Society, with a capital of \$5,000,000, only \$20,000 of which was to be used within the limits of the state of Massachusetts.

MR. SEWARD. Allow me a word of explanation. I am desirous that

my honorable friend from Mississippi shall not perpetuate an old error, which was corrected at the time. Although there were some statements that I was a signer of the paper to which he alludes, those statements were corrected at the time of the occurrence and according to the fact. I am not entitled, therefore, to any of the merit or any of the demerit of the proceeding on which he is commenting. I know the honorable senator would not like to continue an error which is merely personal in its bearing.

Mr. BROWN. I am glad to hear that there is one who did not sign it; but there was such a paper. The point I was making is, that there was such a paper, and that it gave rise to the emigrant aid societies in Massachusetts and elsewhere. I make no point as to the individual senators who signed it. Now, taking the same report, from which I before read, at page 9, I want to show how the persons who were sent out by the Massachusetts Emigrant Aid Society demeaned themselves when they got to Missouri:—

"When the emigrants sent out by the Massachusetts Emigrant Aid Company, and their affiliated societies, passed through the state of Missouri, in large numbers, on their way to Kansas, the violence of their language, and the unmistakable indications of their determined hostility to the domestic institutions of that state, created apprehensions that the object of the company was to abolitionize Kansas as a means of prosecuting a relentless warfare upon the institution of slavery within the limits of Missouri. These apprehensions increased and spread with the progress of events, until they became the settled convictions of the people of that portion of the state most exposed to the danger by their proximity to the Kansas border. The natural consequence was, that immediate steps were taken by the people of the western counties of Missouri to stimulate, organize, and carry into effect a system of emigration similar to that of the Massachusetts Emigrant Aid Company, for the avowed purpose of counteracting the effects, and protecting themselves and their domestic institutions from the consequences of that company's operations."

I produce this authority to show how the controversy commenced. It had its origin in the secret circular; it next exhibited itself in the formation of emigrant aid societies under the authority of the Massachusetts legislature. The emigrants were sent out and demeaned themselves as is described in the paragraph I have just read, and, in the strong language of the report, the natural consequences were the stirring of a feeling of resistance in Missouri. If there had been no secret circular issued, there would have been, probably, no organization of an emigrant aid society. If there had been no emigrant aid society, with a constituted capital of \$5,000,000, to stimulate the settlement of the class of persons set forth in the report from which I have read, in the territory of Kansas, there would have been no counter movement in the state of Missouri, and we should have escaped the charges about border ruffianism, and all the complaints which we have heard uttered to-day for the fortieth time by the senator from Massachusetts, of the terrible outrages committed by those people. I hope the Senate, like a high court of chancery, will require that he who comes here and asks for justice shall come with clean hands. If things have not been done in Kansas with the precise regularity, with all the order and decorum which the senator is accustomed to see at home, whose fault is it? Who began the error? I shall now proceed to show who has perpetuated it.

The election for members of the legislature, as I said before, was holden at the time, at the places, and in the manner prescribed by law. That there must have been irregularities, from the statement of facts al-

ready submitted, any one will see at a glance. The emigrants sent out from Massachusetts and the other New England states, were sent out in full force. They were met in the territory by emigrants from the state of Missouri.

Mr. HARLAN. I desire to inquire of the Senator from Mississippi if he knows what proportion of the free-state men in Kansas emigrated from New England?

Mr. BROWN. I do not know, of course.

Mr. HARLAN. Then I will remark, merely in order that he may not base his argument on a wrong state of facts, that more than four-fifths of the free-state men in Kansas are from the Northwestern States—the states northwest of the Ohio river. There are to-day, doubtless, more people in Kansas from the state of Iowa than from all the New England states combined. The free-state men arrested, with arms in their hands, as it was stated, by the army of the United States, were principally from the state of Michigan; and there were none of those emigrants, I believe, from New England. The great body of the free-state men in Kansas to-day are from the Northwestern States; and this is from the necessity of their position. Within those states there is to-day a population of between six and seven million people. They necessarily, according to the legitimate laws of emigration, throw over into the new territories of the Northwest an immense emigration, that overwhelms any other class of emigrants in point of numbers.

I have deemed this correction necessary, as I saw that the senator from Mississippi was basing one portion of his argument on the supposed fact that the Massachusetts Emigrant Aid Society had sent the major part of the free-state men to Kansas. This is not true. They went to Kansas from the states of the Northwest, as they are going to Nebraska and to Minnesota. There are some men from New England, and some from the Southern States, but the great mass is from the Northwest.

Mr. BROWN. For any purpose of mine, it is not a matter of consequence where they went from—whether from Massachusetts or from the Northwest. My point is, that the movement was set on foot through the instrumentality which I have named. I never supposed that the operations of the Massachusetts Emigrant Aid Society were confined to the limits of that state, else it would not have been provided that only \$20,000 of the capital of \$5,000,000 should be invested in property in Massachusetts. It was intended to operate elsewhere. That it operated in Michigan, Iowa, Wisconsin, and all the free states, I dare say is true; but Massachusetts was the seat of the cancer. It spread out its roots, it is true, into all the free states; its influence was felt everywhere. It is the influence of the movement of which I speak, and not the precise locality where it was set on foot.

Then, sir, I repeat again, that it was the influence of this Emigrant Aid Society that gave rise to the first conflicts in the territory of Kansas. It was the conduct of its creatures as they went through the state of Missouri, as shown by the report of the eminent senator from Illinois, that first stirred the blood of the Missouri people, and determined them to defend, not Kansas, but themselves; for they had unmistakable evidence that these people were being planted there so that they might make forays on Missouri, and, in the language of the report, wage a relentless warfare on slavery in the state of Missouri.



Mr. FESSENDEN. Will the senator allow me to ask him a question?

Mr. BROWN. Yes, sir.

Mr. FESSENDEN. I simply wish to inquire of the senator whether he is aware that, by the report of the committee appointed by the House of Representatives to investigate the matter, it was shown by the testimony of those who were engaged in the transaction—Missouri men—that even before the Missouri compromise act was repealed, associations were formed in that state in the shape of Blue Lodges, as they were called, with the express purpose of procuring emigration into the territory of Kansas, in order to shape its political institutions, and settle there and acquire the mastery?

Mr. BROWN. I was not aware of any such thing. I use the report of the senator from Illinois, not only because it comes from a high source, but because I have been already admonished in the debate this morning, that the source from which it comes is regarded as of high authority on the other side of the Chamber. When the eminent senator from Illinois speaks to the Republican members of this Chamber, they are accustomed to listen. If I am not mistaken, they not only listen, and listen attentively, but they are, to a great extent, guided by his counsels.

Mr. WADE. The gentleman ought not to bind us by confessions made previous to the conversion. Anything stated since, we will hear; but anything before that, I do not consider myself bound by. [Laughter.]

Mr. BROWN. Well, sir, that is rather more witty than profound. But I will show, in this connection, what happened immediately on the reading of that report. The Senator from Massachusetts, not now in his seat, [Mr. Sumner,] at once rose and said:—

"I cannot allow the subject to pass away, even for this hour, without repelling at once, distinctly and unequivocally, the assault which has been made upon the Emigrant Aid Society of Massachusetts. That company has done nothing for which it can be condemned under the laws and Constitution of the land. These it has not offended in letter or spirit; not in the slightest letter, or in the remotest spirit. It is true, it has sent men to Kansas; and had it not a right to send them?"—*Congressional Globe*, first session, Thirty-Fourth Congress, p. 639.

Now, sir, I wish to show how the senator from Illinois [Mr. Douglas] met that speech at the time. He first declares that the facts as he set them forth in the report are true, and then, addressing himself to the senator from Massachusetts, says:—

"This he knows as well as I do. I do not intend to allow denials of the truth of facts to be interposed to screen men from the consequences of their action, when that action is avowed and susceptible of proof; hence the senator's denial cannot be interposed. It is a denial of facts which he knows to be true;—it is a denial of facts which shall not be controverted. If, instead of denying, he proposes to justify them, I would willingly hear him; but he cannot be permitted to deny them. \* \* \*

"If he means that he is prepared to go to the country to justify treason and rebellion, let him go; and I trust he will meet the fate which the law assigns to such conduct. If he means that the hopes of his party are to produce a collision in Kansas, in which blood may be shed, that he may traffic in the blood of his own fellow-citizens for political purposes, he will soon discover how much he will make by that course. We understand that this is a movement for the purpose of producing a collision, with the hope that civil war may be the result if blood shall be shed in Kansas. Sir, we are ready to meet the issue. We stand upon the Constitution and the laws of the land. Our position is the maintenance of the supremacy of the laws, and the putting down of violence, fraud, treason, and rebellion against the government."

I am aware that this strong language was controverted at the time as

unjust; but I am not aware, nor do I believe the record will show, that there was interposed at that day any denial of the facts. The challenge of the senator from Illinois was broad—broad as human language could make it. Not only his language, but his manner, was daring and defiant. The Republican senators were told at that day that their friends were charged with fraud—with rebellion against the constituted authorities of the country—and if they wanted to justify such conduct, they might attempt it, and take the consequences of the justification, but they should not deny the facts; and I believe the facts were not denied.

It was under circumstances like these, I say, that the election for the first legislature was gone into. The pro-slavery party triumphed; and at once we had a howl raised all over the country, from one extremity of it to the other, that the election had been carried by fraud. The party who attempted the first fraud, and that upon a most gigantic scale, calling to their assistance from a single state a concentrated capital amounting to \$5,000,000, lost the election in the territory; and then they cry out "fraud," "rascality," "villany," "bogus laws," and all that. On the broad principle named by me before, that he who commits the first fraud cannot afterwards be allowed, in a court of equity, to complain that his adversary has committed frauds, I claim a judgment in this case. If gentlemen on the other side stood at a disadvantage in the beginning, when did they ever set themselves right? All that I have heard from them since, has been one eternal cry about "fraud," "violence," "bogus laws," and all that. Setting out with the fixed determination, by the use of money and organized societies, to carry the election against the will of the people, they were beaten, and then set up this howl.

The validity of the election, as has been repeatedly said, and, as I suppose, will not be controverted, was recognised by Congress, recognised by the President, recognised by all the five or six governors whom we have sent there; ay, sir, and recognised by a vast majority of the people of Kansas themselves, of all parties. The acts passed by that legislature are in force there to-day; and, as was strongly said by Governor Walker, if you blot them out you leave the territory without law. On that point I desire the attention of senators to Governor Walker's language:—

"The territorial legislature, then, in assembling this convention, were fully sustained by the act of Congress, and the authority of the convention is distinctly recognised in my instructions from the President of the United States. Those who oppose this course cannot aver the alleged irregularity of the territorial legislature, whose laws in town and city elections, in corporate franchises, and on all other subjects but slavery, they acknowledge by their votes and acquiescence. If that legislature was invalid, then are we without law or order in Kansas; without town, city, or county organization; all legal and judicial transactions are void; all titles null; and anarchy reigns throughout our borders."

Thus, sir, it seems that the authority of the legislature, its validity, was recognised in the territory, and is recognised now on all subjects except slavery. Though it is not germane to the point which I am discussing, I will ask in this connection, if it was a valid legislature for all other purposes, if it could grant town charters and city charters, if it could pass laws by which the rights of property are determined, if, in the comprehensive language of Mr. Walker, it was a competent legislature for

all other purposes, and it be true that the people were left to regulate their own affairs in their own way, how does it come that it was not a competent legislature on the subject of slavery?

The legislature thus chosen, the validity of which has been thus recognised by the President, by both Houses of Congress, by six successive governors, by a vast and overwhelming majority of all the people of the territory on all subjects except the subject of slavery, called a convention; but they did not do so without first consulting the people to know whether they desired to have a convention. I hold in my hand an extract from the *Kansas Herald* of October 18, 1856, which sets forth the returns of an election held in obedience to law to determine whether the people of Kansas desired to have a convention called or not. A vast and overwhelming majority of the people instructed the members of the legislature to call a convention. Then it was not, as has been assumed, an act of supererogation. It was not an act of assumption on the part of the legislature to order the convention. It was done in obedience to the popular will. The people at the ballot-box had ordered that it should be so.

The legislature did not call the convention without first preparing the way, so that it should be done in the best manner possible, and in a way to avoid all future controversy. I have before me an act of the legislature, in which it is directed that a census of the whole population shall be taken, and a registry of the votes made, for the purpose of ascertaining who was legally entitled; and, under that authority, I find that—

“Every *bona fide* inhabitant of the territory of Kansas, on the third Monday of June 1857, being a citizen of the United States, over the age of twenty-one years, and who shall have resided three months next before said election in the county in which he offers to vote, and no other person whatever, shall be entitled to vote at said election; and any person qualified as a voter may be a delegate to said convention, and no others.”

What could be fairer? Was there any attempt to give advantage to one party over another? Every *bona fide* white male inhabitant, over the age of twenty-one years, was entitled to vote; and all he was required to do was to give his name to the census-taker, and to allow it to be recorded on a register kept for that purpose, so that when the election came on, these emigrant aid men, these bogus men from Massachusetts, and these border ruffians from Missouri, might be excluded. It was a fair attempt on the part of the legislature to allow all who were justly entitled to vote the privilege of exercising it, and excluding all who were not entitled to vote.

When gentlemen find fault with this action of the legislature, would it not be well to point out the objection? Was it not fair? Was it not as fair for one side as for the other? It was an attempt to register all who should be entitled to vote, and to exclude all from every quarter, whether they came from the North or the South, who were not entitled to vote. How was that proposition met? Governor Stanton, in his message to the legislature at the late extra session, tells us that nine thousand two hundred and fifty-one votes were recorded, and no more. He tells us that a large number were not registered, and he assigns various reasons for it. I will read his very words:—

“The census therein provided for was imperfectly obtained from an unwilling people, in nineteen counties of the territory; while, in the remaining counties, being

also nineteen in number, from various causes no attempt was made to comply with the law. In some instances, people and officers were alike averse to the proceeding; in others, the officers neglected or refused to act; and in some there was but a small population, and no efficient organization, enabling the people to secure a representation in the convention. Under the operation of all these causes combined, a census list was obtained of only nine thousand two hundred and fifty-one legal voters, confined to precisely one-half the counties of the territory, though these, undoubtedly, contained much the larger part of the population."

Mr. Walker subsequently repeats the same charge, and says there were fifteen counties disfranchised. As this is an important point in the transaction, I shall pause to examine it with some little care. Is it true that either nineteen or fifteen counties were disfranchised either under the circumstances named by Mr. Stanton, or those presented by Gov. Walker? I think I shall be able to demonstrate that no such thing is or can be true. Recollect Mr. Stanton states there were nine thousand two hundred and fifty-one votes registered. This was the number on the last day of March, 1857, when the register was closed. In October following; more than six months after, when it is admitted the whole population voted, registered and unregistered, at that election at which Mr. Parrott, now a delegate in the other house, was chosen, when I believe all parties took a hand in the election, what number of votes was polled? According to the authority of the *Kansas Herald*, ten thousand nine hundred and fifty-three votes were polled, being only seventeen hundred and two more than were on the register. According to the *Herald of Freedom* there were polled at that election eleven thousand six hundred and eighty-seven, or two thousand four hundred and thirty-six more than were on the register.

Now, sir, if you will bear in mind that this was an election at which everybody went to the polls without let or hindrance, and then remember that the country had been populating from the last of March, when the register was closed, to October afterwards, you will find, I think, most of these two thousand four hundred and thirty-six, according to one authority, and seventeen hundred and two, according to the other, accounted for. There would be that many more by the ordinary laws of population; and then it is admitted large numbers were found by the census takers who refused to give their names. In a country like that, sparsely populated, new, and without roads, beyond all question, there would be considerable numbers who could not be found, even with the utmost vigilance. Now, make a fair deduction for the increased population for six months; make a fair deduction for those that could not be found; make a fair deduction for those who refused to register, and take those deductions from the excess of two thousand four hundred and thirty-six, according to the *Herald of Freedom*, an Abolition paper, and you have very few deliberately disfranchised men left—not half enough to populate nineteen counties, according to Mr. Stanton, or fifteen counties, according to Governor Walker. I think, therefore, unless the figures speak falsely, I have shown already that Mr. Stanton and Mr. Walker are mistaken. And I now choose to show, even at the expense of wearying myself, that these gentlemen never seemed to entertain this idea until lately. Let us see what Mr. Stanton said on the subject in his first address to the people of Kansas, when he went there and assumed the duties of acting governor, by virtue of his commission as secretary. In this address, dated the 17th of April, 1857, he said:—

"The government especially recognises the territorial act which provides for assembling a convention to form a constitution with a view to making application to Congress for admission as a state into the Union. That act is regarded as presenting the only test of the qualification of voters for delegates to the convention, and all preceding repugnant restrictions are thereby repealed. In this light the act must be allowed to have provided for a full and fair expression of the will of the people, through the delegates who may be chosen to represent them in the constitutional convention."

Recollect that when this was said the register had been closed; we had then these complaints that men had been disfranchised, and everything had been said about it. Then the great prominent fact which stared the country in the face was, that considerable numbers of the free state men had refused to register; and the acting governor speaks to them, and tells them they had a full and fair opportunity open to them to give expression to their views. How could he say that, if nineteen counties, or one half the counties in the territory, had been disfranchised? I do not pretend to say that a full registry was taken or kept in all the counties of the territory. I think that may not have been. I see the fact stated on the authority of an eminent citizen of the territory, that the census was taken, in some instances, for four or five counties together, under the name of one county. I have the paper before me, but shall not stop to read it, because I do not consider it very essential.

Next let us see what Mr. Walker said on this subject. Mr. Walker went to the territory and issued his inaugural address on the 27th of May. The registry had then been closed nearly two months. He had the benefit of the experience of Mr. Stanton, who was his immediate predecessor; and then, addressing the people of the territory, he used this language:—

"The people of Kansas, then, are invited by the highest authority known to the Constitution to participate freely and fairly in the election of delegates to frame a constitution and state government."

Mr. Walker, with all the facts before him, addressing the people two months after the registry had been closed, and all the complaints had been uttered, said to the people of Kansas, "an opportunity is now offered to you of freely and fairly expressing your opinions," how can he now come forward and say that fifteen counties, some of them the oldest in the territory, had been deliberately disfranchised?

I show then, first by the figures, next by Governor Stanton, and next by Governor Walker, that the statement is not true. It cannot by possibility be true that fifteen counties of the territory were disfranchised, if by fifteen counties be meant any considerable portion of the population. If it be simply meant that the forests and the soil were disfranchised, without reference to the people, it may be true. There may be territory enough here to make fifteen counties, and those counties may have legislative names; but when Mr. Walker is at pains to say, as he does, that some of them are the oldest counties, if the story is not contradicted in some way, the country will be led to the conclusion that by this declaration it is meant that one half the population has been disfranchised. I undertake to say, first from the poll list, next from Mr. Stanton's declaration, and lastly from Mr. Walker's himself, that the statement is not true in that sense, and cannot be so. If Mr. Walker thought as he now states, and as he seems willing to have his friends

here state upon his authority, that these people had been disfranchised, and that they were only seeking rights which belonged to them under the constitution and laws, I want to know how he could ever find it in his heart to address to them such language as I shall now read? In addressing the Secretary of State, under date of July the 15th, 1857, he says:—

“In order to send this communication immediately by mail, I must close by assuring you that the spirit of rebellion pervades the great mass of the Republican party of this territory, instigated, as I entertain no doubt they are, by eastern societies, having in view results most disastrous to the government and to the Union.”

Sir, if Mr. Walker, writing on the 15th of July, 1857, to the government whose commission he held, under whose authority he was acting, and to whom he was bound to make truthful and correct reports, had seen that these people had been disfranchised, that fifteen counties had been denied the right to participate in the election, and had seen, as he seems quite willing now to have us believe he did see, that they were struggling for rights which had been lawlessly and violently torn from them, how could he say to the President that they were in open rebellion against the government? No, sir; he did not so understand it. He, doubtless, thought and understood as he wrote, and as he said, that the spirit of rebellion pervaded the entire mass of the Republican party in that territory, that they were instigated by certain eastern societies, the Massachusetts Emigrant Aid Society and its affiliated societies elsewhere, and that the purpose was to break down the government, and overthrow the Union. These were the grave charges brought at that day.

Let us go a step further, and hear him talk to the poor downtrodden free-state men of Kansas! Robert J. Walker, talking to these people who, he now says, had been disfranchised, who had been denied, according to his present authority, all right to participate in the election; who had been tyrannized over, trampled upon, and treated worse than outlaws and outcasts, says, (I read from his proclamation of July 15, to the people of Lawrence:)—

“You have, however, chosen to disregard the laws of Congress and of the territorial government created by it; and whilst professing to acknowledge a state government rejected by Congress, and which can therefore now exist only by a successful rebellion, and exact from all your officers the perilous and sacrilegious oath to support the so-called state constitution; yet you have, even in defiance of the so-called state legislature which refused to grant you a charter, proceeded to create a local government of your own, based only upon insurrection and revolution. The very oath which you require from all your officers to support your so-called Topeka State Constitution is violated in the very act of putting in operation a charter rejected even by them.

“A rebellion so iniquitous, and necessarily involving such awful consequences, has never before disgraced any age or country.”

That is Robert J. Walker talking to these down-trodden people who had been disfranchised! Did he think they were disfranchised at that day? Mark you, he had been in the territory then from the 27th of May to the 15th of July following. During all that time he had made no discovery that the rights of these people had been injured, or he could never have said to them: “a rebellion so iniquitous, and necessarily involving such awful consequences, has never before disgraced

any age or country." Then again, in addressing the Secretary of State on the 20th of July, he says :—

"I am no alarmist; but if the Lawrence rebellion is not put down, similar organizations, extending to counties as well as towns, will be carried into effect throughout the territory, the object being to overthrow the territorial government and inaugurate the Topeka state government, even before the admission of Kansas as a state by Congress."

And he calls for troops, thinking nothing else will do. Now, one extract further. On the 27th of July, Governor Walker disposed of his whole complaint about border ruffians. In addressing the Secretary of State on that day, on his responsibility as governor of the territory, bound to give correct information, acting under the solemn obligations of his oath, he says :—

"There is no longer any pretext for the suggestion that any portion of the people of Missouri intend to invade the ballot-box at any election in Kansas."

If all this be true, why did not the people go forward and vote? A full, free, fair opportunity was afforded to them to do so. They certainly were not to be intimidated, nor browbeaten, nor driven from the polls by the Missouri border ruffians, when the governor of the territory could assure the President, as he did, that there was no longer any pretext for saying that Missourians intended to invade the ballot-box, or take any part at the election. Yet the spirit of rebellion was kept up in the territory.

I come back to the convention. It was chosen; it assembled; it made a constitution. At this point we lose an ally who has stood by us from the beginning of the controversy. The senators on the other side of the chamber were never expected to go with us for the admission of Kansas, but the senator from Illinois was expected to do so. He, it will be recollected, was the author of the bill; he it was who urged upon us the acceptance of the proposition to admit the state with or without slavery, as her constitution might determine; he it was, of all other men, who was most bound to stand by that agreement, and never to abandon it until compelled to do so by some gross violation of it on our part. The senator stood committed to the legality of the first legislature, as I have shown you. He defended all its proceedings up to the calling of this convention. He told us, but two days ago, that, in calling the convention, the legislature had not transcended its power. He insists that it would be more regular to get authority from Congress before the legislature acted; but, if the legislature choose to act without the authority of Congress, he admitted two days ago, clearly and distinctly, it had a right so to act. He admits that a refusal on the part of the convention to submit the whole constitution to the people does not invalidate it. He would prefer to have the whole constitution submitted to a popular vote; but he says it is not essential that it should be done.

This narrows the controversy, it seems to me, to a single point, and that is this: Is the constitution, as it is now presented to us, the act of the people of the territory of Kansas, ascertained in the mode prescribed by law? Is it a constitution made by the people, at the time, at the place, and in the manner prescribed by the written law? If it be so, then I think we shall have no difficulty in maintaining that it must be accepted, whether it tolerates or excludes slavery; and that it is but

a resort to a technicality, not creditable to those who resort to it, to make complaints that a majority of the people of the territory possibly did not vote in regard to it. If they did not, whose fault was it? Did it lie in the power of Congress to compel them to vote? Did it lie in the power of the legislature to force them to the ballot-box? Could the President, or the governor, or any other power known to the law, compel these people to go to the ballot-box and vote, whether they would or not? If I have shown you from the documents, as I think I have, that the law gave them the privilege of voting; that the governor proclaimed to them that they had a full opportunity of voting; that he would use the military power at his disposal to secure them the right to vote; if all these guarantees were held out, and they refused, is the constitution to be overturned? Are we to refuse to accept the state, in deference to the judgment of those pronounced by the senator from Illinois to be rebels and traitors against the government—those denounced by the governor of the territory as rebels and traitors, seeking to overthrow the government and overturn the Union? Are we to refuse, in deference to the judgment of such men, to fulfil the solemn compact we have made, to admit the state, with or without slavery, as her constitution might prescribe?

I quite agree with the senator from Illinois that the constitution must be the act of the people, or it is no constitution; but he and I have different modes of arriving at the will of the people. I maintain that when the day of election comes, and the ballot-box is open, and the people left free to go and vote or not as they please, those who vote carry the election, and not those who stay away and obstinately refuse to vote. The ballot-box has been kept open under the strongest guards. Every legal protection has been given by the President, by all his governors, and by all who have spoken, that every man should vote who chose to vote; and yet these parties have obstinately stood out and refused to exercise the right guaranteed them by the law; sometimes, we are told, because they were intimidated; and then some more daring friend, a little ashamed of that sort of excuse, says they would not vote because the whole thing was a fraud from the beginning. I care not whether it was done for the one cause or the other, so long as the plain, stubborn fact stands out that there was no intent, no desire, expressed by them to exercise the franchise. Sir, we are falling upon strange times. An election is holden, the ballot-box is closed, and some man has got all the votes polled, but they do not constitute a majority of all the people of the district; and forthwith up starts some fellow, who says: "The election must go for nothing; you have not got a majority of all the voters, and therefore the election is void." That I understand to be substantially the ground taken by the senator from Illinois; that because a majority were not polled affirmatively, therefore the election is not binding.

I believe the senator is a native of Vermont, and I think he does great credit to his nativity; for certainly nobody short of a Vermonter ever would have made a discovery so notable as this. Why, sir, it is Yankee all over. See how easily you can dispose of any election according to this theory. All that you have to do is to ascertain that you are pretty certain to be beaten, and then tell your friends not to go into the election, and keep everybody else from voting that you can; and when the election is over, show that a majority of all the votes have not



been polled, raise a cry, and have the whole election overturned. That sort of argument will not do. I have, I believe, two colleagues in the other House now who were chosen by minority votes; chosen, I am glad to know, because of their extraordinary popularity. Nobody ran against them. They got each, I suppose, two-fifths of all the votes in their districts; nobody else got any votes at all; but according to these modern doctrines they are not elected; the three-fifths who did not vote can call a mass meeting, overturn the old election, and have a new election to-morrow! This is what I understand this doctrine to amount to. No, sir; when the time came, and the place was pointed out for holding the election, and it was held in the manner prescribed by law, it was binding; and I care not whether one, or one thousand, or one hundred thousand votes were polled.

Why, sir, if an election were to be held in your district to-morrow, and but two of the fifteen thousand votes were cast, the election would be binding. It would not be in the power of the other fourteen thousand nine hundred and ninety-eight to overturn the election the next day. They allowed the time to pass when they could have expressed their will in the mode prescribed by law; and if they chose to let the favorite moment pass by unimproved, they could not afterwards take advantage of their own error, or wrong, or laches. That is all I claim with reference to Kansas. I simply claim that, at the time, at the place, and in the mode prescribed by law, the people of Kansas have expressed their opinion favorable to this constitution.

But we are told that the constitution is not binding on other grounds; it is said that some of the delegates disregarded the will of their constituents. I do not know how that may be; but I appeal to every man who has read the first horn-book of the law, if this is not true: that, as between you and other parties, you are bound by the act of your representative. We shall fall upon strange times here, if the fact of delegates, representatives, disregarding the will of their constituents, is to vitiate laws and constitutions. I mean to be entirely respectful; but it seems to me that, in throwing my eye over this Chamber when it is full, it takes in more than one senator who does not obey the will of his constituents. Am I to be told that the legislation of Congress is void because the will of our constituents has not been obeyed? If your acts are not invalid when you refuse or fail to carry out the will of your constituents, does not the same principle apply in Kansas? The delegate is responsible to his constituents, and to nobody else. The constituency has not complained. This complaint comes from a different quarter. It is said that General Calhoun and other delegates did not carry out the will of their constituents. Have you ever seen a complaint from any of those who voted for them, that their will had not been executed by them? Has anybody that voted for Calhoun and his associates ever complained that he was cheated—that they did not do what they promised to do? I want to know if it lies in the mouth of the enemy to complain that I do not properly reflect the will of my constituents?

I do not know what my friend from New York, who sits before me [Mr. King], may have promised when he was elected. I dare say he promised to do something wrong; I think that is exceedingly probable. [Laughter.] Suppose he does not do it; have the Democratic members of the New York legislature any business to complain? They were not

cheated; they gave him no votes. If the senator fulfils the wishes of his own friends; in other words, if, on party questions, they release him from party obligations, nobody else has a right to interpose and complain. I take the ground, and I stand on it, that my obligations on party issues are to the party who have elected me; and if they absolve me from the obligation, no one else has a right to bind me.

Then, sir, taking it on the ground that these men did violate their pledges, which I should undertake to controvert as a matter of fact, what does it amount to? Until it is shown that the men who elected them were deceived, and that they complain, I maintain that the complaint goes for nothing. Suppose a senator comes here pledged to his party friends as a party man on a party measure to do a particular thing, and they afterwards change their minds, and say to him, "We would rather you would not do it," and he refuses it: have the enemy any business to complain? This was a party question; it was a question between the Pro-slavery party on the one hand, and the Free-state party on the other; the Free-state men did not vote for Mr. Calhoun; they did not vote for his associates; they got their votes of the Pro-slavery party, and were chosen; and whenever the Pro-slavery party complain that they have violated their pledges to them, the complaint may be listened to; but it would be just as bad for me or my friends to complain if the Anti-slavery party had not redeemed their pledges to their friends. I have nothing to do with their pledges, whether they redeem them or not.

Now, sir, I can tell you what I understand to be the facts, and that they are susceptible of proof I have no question. These men did pledge themselves to submit the whole constitution to the people. They did it with the hope of getting the whole population to come out and vote. The Anti-slavery people declared that they would take no part in the election; they would have nothing to do with it; they would stay away from the polls. Then the friends of Mr. Calhoun and his associates held meetings, and absolved them from their obligation to fulfil that pledge. They said, and said rightly, "The pledge is to us; we do not want you to fulfil it; we do not ask you to fulfil it; we would rather you would not fulfil it." If they absolved them from the obligation, I maintain that nobody else had a right to complain.

The senator from Michigan [Mr. Stuart], in addressing himself to this subject, some days ago, took one or two positions to which I beg leave to call attention. He made it a ground of marked objection to the Kansas constitution that it was repugnant, in many of its provisions, to a large portion of the people, and that yet, before they were allowed to vote in regard to it, they were required to take an oath that they would support it. This the senator considered a monstrous outrage. Sir, it would have been a monstrous outrage if the test oath, as he calls it, had been applied to one party, and not to the other; but it was applied to every voter, whether he belonged to the Free-state or to the Slave-state organization; to the Pro-slavery or the Anti-slavery party. If anybody required him to do it, he must take an oath to support that constitution before he could exercise the right of voting for or against it. I do not think there was any great outrage in this. If there had been an oath that they should approve the constitution, there would have been a great outrage in that; but to support a constitution, and to

approve it, are two different things. How often has the honorable senator sworn to support the constitution of Michigan? Does he approve all that is in it? Are there not things in it which he would prefer to have otherwise? When we go to that desk, and swear to support the Constitution of the United States, do we swear that we approve it? If so, I never would have taken an oath to support it. There are many things in it which I do not approve, which I should be glad to see otherwise; but I am simply sworn, as a good, law-abiding citizen, that so long as it is the Constitution, I will support it, whether I believe it to be right or wrong.

These people, as I have shown before, were in open rebellion against the government of Kansas. Disguise the fact as you please, it still stands out at every point that they were in rebellion; and the convention, wisely I think, required them to support the constitution before they should have anything to do with putting it in operation. It was meant for rebels and traitors and for nobody else, and being meant for them it was right. What business has a man in open rebellion against the government of his country, not meaning to obey its laws or support its constitution, to take part in its elections? If he will do so, ought you not to bind him by oaths, and by all the power that you can throw around him, to cease his rebellion and obey the laws? Even acting under the solemnity of an oath, these men would hardly be held within reasonable bounds or proper restraint. Without some such restraint, it would have been madness to submit the constitution to their hands.

Again, my honorable friend objects to that feature of the constitution which required the president of the convention to appoint the officers who were to hold the election. When people do not mean to be satisfied, they find fault with anything and with everything. What have been the great complaints in reference to Kansas elections? That the sheriffs would not do their duty, that they were partisan men. It is even said, now, that when they were required to take the census and keep the registry of votes, they did it so imperfectly that one-half the people were disfranchised. Then the convention takes the matter out of the hands of the sheriffs and puts it in the hands of commissioners, and the senator is not satisfied. What will satisfy him? I know the senator from Michigan is too fair-minded to want anything unjust. I am sure he would not want ballot-box stuffers appointed on either side to hold the election; but it seems to me, that in view of all the complaints about the malfeasance and bad conduct in every way of the sheriffs, that it was wise and proper to put the election in the hands of new parties.

Again, the senator says Kansas is to be admitted into the Union, and he likens the position to bring her in to carrying a convict with shackles upon his arms, and admitting him into the penitentiary. I am sure that the senator could not well have studied that expression before he uttered it; he could not have reviewed the speech after he made it, or no such comparison would have been allowed to pass into the everlasting records of the country. What, sir, the introduction of a state into this Union, likened to the admission of a shackled convict into the penitentiary! I scarcely know in what language to comment on such a comparison.

Then my friend (and I am sorry that I have not his speech before me, but I am sure I shall quote his idea correctly), as though exceedingly anxious to get clear of the slavery question and put it away from him,

says "these woolly-heads are eternally floating before my vision; turn which way I may, I am surrounded with these woolly-heads." All I have to say to that is, that if the senator will let the woolly-heads alone, I will be responsible that the woolly-heads will let him alone. There is not a more amiable people in all the world, let me tell the senator, than these same woolly-heads. They are as innocent and inoffensive as the sheep that graze upon his own pastures, and never disturb any one.

By the way, talking of the woolly-heads and the sheep, reminds me of a little story that I think will illustrate the senator's position. I heard somewhere of a man who had been long suspected of not dealing very fairly with his neighbor's property. Away out in an unfrequented wood the owner of a flock came bluff upon him just as he had slaughtered a sheep, and it was lying at his feet. Said the owner of the animal, "I am glad to catch you at last. At last I have caught you in the very act." "Caught me in doing what?" "In the very act of killing my sheep." "Indeed," the man replied, "have a care; be a little cautious, sir, how you charge an innocent man with sheep stealing." "Why, you do not mean to say that you did not kill the sheep?" "Certainly not," was the reply, "I did kill the sheep, and I would kill anybody's sheep that would bite me as I am walking peaceably along the road." [Laughter.]

Now, sir, if the senator will let our sheep alone, our woolly-heads alone; I dare say he will never be bitten by them while he is peaceably walking along the road, or in any unfrequented part of the country. Just let the negroes alone. If the senator will take it kindly, I would advise him to attend to Michigan affairs, and let me attend to Mississippi matters; just get all your northern friends to attend to local matters which concern you, and let us down South attend to our own local affairs; and then let us jointly attend to the affairs of the whole country, and we shall get along finely. Our sheep will never bite you, our woolly-heads will never disturb you, if you will only act on that principle.

Well, sir, I have got through the greater portion of what I intended to say on the points already alluded to; yet there are other matters connected with the discussion to which I feel that I ought to pay some attention.

MR. BROWN resumed and concluded his remarks the next day as follows:—

The senator from Illinois [Mr. Douglas], in opening the discussion on the Kansas question at this session, took the position that the President of the United States had committed a "fundamental error" in stating that the Lecompton convention was bound to submit the slavery clause to the people of Kansas, but was not bound to submit any other portion of the constitution. I am not going to discuss with the senator the point whether this was a fundamental or a superficial error, and yet I think it was an error. I take the ground that the Lecompton convention was not bound to submit the whole constitution, or any part of it; and that the error into which the President fell was not that stated by the senator from Illinois, but the one indicated by myself—to wit, in assuming that the convention was under obligation to refer any part of the constitution to the people. It might refer the whole, if it chose; it might refer any part, if it chose; or it might not refer either the whole or a part.

If this be not so, it seems to me that the whole doctrine of non-intervention passes for nothing. What, sir, lay down the broad principle that the people of the territory are to regulate their domestic affairs in their own way, and then interpose your authority at every step—tell them what they shall and what they shall not do; that they must submit this clause of the constitution and that they need not submit others; or that they must submit the whole constitution, or that they shall not submit any part of it! I apprehend that the true doctrine is—not only upon sound original principles, but on the principles embodied in the Kansas bill itself—that you have no right to interpose your authority; but the people of Kansas, or the convention speaking for the people, might either submit the constitution or not, as they chose, or submit the whole of it or any part of it. This must be so if you leave them free to regulate their own affairs in their own way.

I think the President erred. I think he fell into an error in his instructions to Mr. Walker originally on the subject of submitting the constitution to the people. In the instructions he says:—

“When such a constitution shall be submitted to the people of the territory, they must be protected in the exercise of their right of voting for or against that instrument, and the fair expression of the popular will must not be interrupted by fraud or violence.”

This, I think, was an error; yet it was not so grave an error as has been charged. Mark you, the President did not say to Governor Walker, as the governor afterwards very adroitly assumed he had said, that “the constitution must be submitted;” “it shall be submitted;” or “it ought to be submitted.” He authorized him to employ no such language, but he assumed that it was to be done as a matter of course. I should have preferred that the President had assumed no such thing; but rather that, in the language of the law itself, he should have left the people of the territory perfectly free, either to submit it or not, without any suggestion from the executive power of this government. But if you will scrutinize the language, it will be seen that there is a vast difference between that employed by the President and that attributed to him by those who choose to criticise his instructions. While I say that I think the President committed an error in this point, I must also declare that it was an error into which he might very easily have fallen; for the reason that there had been an assumption in the debates here on the Minnesota question that these constitutions must be submitted; and in the Minnesota case, Congress determined that it should be done. The President, therefore, might very easily have fallen into that error; and seeing that he did it, innocently, in all probability, and that it amounted to very little after he had fallen into it, I have never felt disposed to criticise his instructions to Mr. Walker. My criticism has always been on the manner in which the instructions were carried out. When the President assumed that the thing was to be done, Mr. Walker had no right to conclude that he had been ordered to have it done. There is a great deal of difference between assuming that a thing is to be done as a matter of course, and ordering it by authority to be done, whether the people like to have it done or not.

The instructions to which the sentence I have quoted was a prelude, went to a different point. The instructions were—and strangely enough,

the Republican senators overlook them—that the election should be a fair one; that the governor should, if necessary, use the military power of the government to prevent disturbances at the polls. Assuming that the constitution was to be submitted, not directing that it should be done, the President gave the very proper direction that the election should be fair; and that, if the military power should be necessary, the governor should employ it to prevent either fraud or violence at the polls. Overlooking these proper instructions, the President is constantly criticised as having given a specific instruction to do that which he assumed would be done without instruction, or without invitation.

If this constitution be rejected, the fact can never be disguised from the great American public that it owes its rejection, solely and entirely, to the slavery clause. Gentlemen may resort to all manner of sophistry; they may resort to all manner of argument; but still, at last, the broad fact stands out staring the world in the face, that the constitution is to be rejected because it tolerates slavery. It is true, that the senator from Michigan [Mr. Stuart], and the senator from Illinois [Mr. Douglas], speak of what strike them as objectionable features in the constitution, with reference to banks, railroads, and schools, and all that; but will one of them get up now and say, "I would vote to reject the constitution solely on these grounds?"

MR. DOUGLAS. I desire to respond to that interrogatory now. If the Lecompton constitution was a Free-state constitution, I would vote to reject it. To show the senator from Mississippi that he ought to have so inferred from my former action, I will remind him that my speech against it was made before the vote was taken on the 21st of December, on the slavery clause, and at a time when it was almost universally conceded that the pro-slavery clause was to be voted out; and that the constitution was to come here with a provision for "no slavery." My speech was made against it under the probability that Kansas under it was to be a free state. I took the ground then, that you had no more right to force a free state constitution on the people against their will than you had to force a slave state constitution on them against their wishes. I now say to the senator that my vote is given without any reference, directly or indirectly, to the slavery question. It is predicated on the great fact that a majority of that people are utterly opposed to this instrument as their fundamental law, and that you have no right to force it upon them either as a slave state or a free state constitution against their will. If they want a slave state, let them have it. I will give them every chance to express an opinion for a slave or a free state as they choose, and I will take them into the Union whichever way they decide that question.

MR. STUART. I intimated yesterday my disinclination to interfere with the speech of the senator from Mississippi, and stated that at the proper time I should take occasion to reply to all that he had said of me, in full; and I had hoped that the senator would not find it necessary, in the further discussion of this question, to refer again to me. He has done it, however, and done it in such a manner that my silence might authorize him, and authorize his constituents, for whom, he informed us yesterday, he was speaking, to infer that I should have voted for the admission of Kansas with this constitution, if it had been a free state constitution. Now, sir, I stated distinctly in my speech, and,

if the senator will take the trouble to look at it he will find it there, that it made no difference with me whether the constitution with slavery, or the constitution without slavery, were presented. And I stated then, show me that the constitution embodies the will of the people of that territory, and I shall vote for it, whether I like its provisions or not; but, believing that this instrument is decidedly against the will and wishes of a large majority of that people, and being convinced that this is no longer a debatable point, but one which has been demonstrated by that people at the polls, I stated that there was no power under the Constitution to admit them as a state. The Constitution, in my judgment, authorizes the admission of a state when requested by a majority of its people; but not the coercion of a state into the Union against a majority of its people.

Mr. BROWN. Neither of the senators has answered my question. I was advertised before that they were resisting the admission of Kansas on the ground that her constitution was not acceptable to the people of Kansas; and yesterday I answered that objection, and shall probably have to repeat some of the arguments to-day: especially if this colloquy goes on. But the point to which I was calling the attention of the senators was this: they have criticised the railroad policy, the banking policy, the school policy, and other features embodied in this constitution. Will they vote to reject the constitution on one or all of these grounds?

Mr. DOUGLAS. I will answer again, that I should not vote to reject the constitution because I did not like its railroad policy; or because I did not like its revenue policy; or because I did not like its system of elective franchise; or because I did not like its slavery policy. I should not vote against it on any or all of these grounds; but I vote against it upon this ground: I do not care what provision the people of Kansas insert in their constitution on each, all, or any of these subjects. Whatever they want to put there they may have; but I vote against it because this constitution does not meet their will—because they are opposed to it. If they are opposed to it only because they do not like the elective franchise, you have no right to force it on them. You have no right—it is not your province—to judge of the sufficiency of their objection. So with the slavery question. My opposition, I repeat, has no connection with the slavery question. I stand on the principle that the people of Kansas have a right to make their own constitution, and have it embody their own will; and I will stand by that right, whether the result be to make Kansas a slave state, or a free state, and any other motive attributed to me is unjust, and proven to be unjust by the fact that I denounced this as a fraud at a time when it was universally conceded here that the pro-slavery clause was to be stricken out.

Mr. GREEN. You say "universally conceded." I say, no, sir.

Mr. DOUGLAS. Perhaps there may have been here and there an exception, but I made the objection at a time when the President of the United States told all his friends that he was perfectly sure the pro-slavery clause would be voted down. I did it at a time when all or nearly all the senators on this floor supposed the pro-slavery clause would be stricken out. I assumed in my speech that it was to be returned out, and that the constitution was to come here with that article rejected. I made my speech against it therefore as a free-state consti-

tution. The whole speech proceeded on that ground. Now I submit whether it is candid or just to intimate that my objection is on account of the slavery clause? I stand here prepared to prove, and intend to prove, that this constitution is not the act of the people of Kansas; that it does not embody their will, and that there is no lawful authority to put it in operation against their wishes.

Mr. BROWN. We have heard very often from the senator from Illinois that his objection to the Lecompton constitution is chiefly and mainly that it is not the act of the people. When, however, I heard him elaborately criticise the banking policy, the railroad, school, and other policies indicated in the constitution, I took it for granted that they had made some lodgment on his mind. I was endeavoring to ascertain to what extent—whether to a sufficient extent to induce him to vote for a rejection of the constitution. I now understand him to say distinctly that he would not vote to reject the constitution on account of any policy of that sort, either bank, railroad, school, or any other.

Mr. DOUGLAS. Or slavery.

Mr. BROWN. Or slavery, or all combined.

Mr. DOUGLAS. All combined would not induce me to vote against it, provided it was the will of the people.

Mr. BROWN. Then I come to discuss the question with the senator again, and very briefly to recapitulate what I said yesterday on the point of this constitution being the act of the people. I said then, and now repeat, that unless it is the act of the people it is no constitution, and ought not to be accepted; but I have one mode of ascertaining what is the will of the people, and the senator has another, and a different mode of ascertaining it. If the will of the people has been ascertained at the time and place, and in accordance with the mode appointed by law, that is all I require. If, as I undertook to show yesterday, the ballot-box was thrown wide open, a free and unrestricted invitation given to all men of all parties to come forward and vote, and the time was allowed to pass by, the opportunity to vote was suffered to go unimproved, those who did not vote cannot claim that they carried the election as against those who voted. I undertook to illustrate that idea by showing that, if in a congressional district on the day appointed by law, when the ballot-boxes are all opened, the judges, and superintendents, and clerks all there, but one-third, nay, if but one-tenth of all the votes are polled for a particular candidate, he is elected, and it is not competent for the other nine-tenths to hold a mass meeting on the next day, and declare the election void. I said, yesterday, that I have two honored colleagues in the other House of Congress, who received at the election in Mississippi about two-fifths of all the votes in their districts. They had no opponents. The opposition did not vote, because voting would be fruitless. A large portion of their friends, seeing that there was no contest, did not vote, and but a small vote was polled. I submit to Senators whether it would be competent for the other three-fifths, who did not vote, to call a mass meeting, and declare that my venerable friend, General Quitman, was not elected a member of Congress, because he only got two-fifths of the votes of his district. He got about five thousand votes out of some fourteen thousand. The remainder were presumed, as in all such cases, to have acquiesced in the result; but, whether they did or not, I take the ground that they could not hold an election the next day, and de-



termine that General Quitman was not elected. When the time came, when the polls were opened at the right place, and the people had an opportunity to vote, if they did not do it, it was their own fault.

The senator from Illinois says he agrees with me there. If he does, I ask whether, in the manner of submitting this constitution, all was not done which those who had taken part in the election required to be done? That takes us back to the election of delegates. I discussed yesterday, and do not care to repeat it all to-day, the question whether, in the matter of disregarding instructions, as was charged upon Mr. Calhoun and his associates, they had violated any public sentiment in the territory to which they were in any wise amenable. I do not discuss the question whether they violated pledges or instructions or not; I simply say that there is no complaint from those who voted for them.

Mr. STUART. If the senator will allow me to interpose now, as I am about to go out, I will only say this: so far as I am concerned, I have no disposition to interrupt him, or raise any dispute with him at this time in regard to his effort to prove that this constitution is the will and the wish of the people of Kansas. I should not have interrupted him at all, if he had not indicated at least a design to charge me with an intention to vote against the constitution because it was now a pro-slavery constitution, when I otherwise would not have done so. That I thought was unfair, when I had entirely shut the door against that conclusion in the very speech I made. I desire to take as little of the time of the senator as possible; and, therefore, shall say nothing further at present.

Mr. BROWN. I am sure I am very glad to hear the senator say so; but unless he intended to control his vote by his speech, I really cannot see much use in making the speech. The greater portion of the senator's speech was taken up with criticisms on the bank policy, the railroad policy, the land policy, and the school policy of Kansas. If he was not going to vote to reject the constitution on these grounds, I certainly do not see any reason for assigning them as objections to the constitution; however, our tastes differ on that subject.

On the point to which I was addressing myself a few moments ago, a friend has handed me a speech, pronounced by a very distinguished statesman of this country in 1843, which is so apposite that I will take the liberty, with the indulgence of the Senate, of having read one or two short paragraphs. It is a speech pronounced by Mr. Webster, and published on the 19th of February, 1843, in Niles's Register.

Mr. Green read, as follows:—

"Is it not obvious enough that men cannot get together, and count themselves, and say they are so many hundreds and so many thousands, and judge of their own qualifications, and call themselves the people, and set up a government? Why, another set of men, for miles off, on the same day, with the same propriety, with as good qualifications and in as large numbers, may meet and set up a government for themselves—one may meet at Newport, and another at Chepachet, and both may call themselves the people. What is this but anarchy? What liberty is there here but a tumultuary, tempestuous, violent, stormy liberty—a sort of South American liberty, without power, except in spasms—a liberty supported by arms to-day, crushed by arms to-morrow. Is that *our* liberty?

"This regular action of popular power, on the other hand, places upon public liberty the most beautiful face that ever adorned that angel form. All is regular and harmonious in its features, and gentle in its operation. The stream of public authority, under American liberty, running in this channel, has the strength of the Missouri, while its waters are as transparent as those of a crystal lake. It is power-

ful for good. It introduces no tumult, no violence, and no wrong: It is well enough described in those lines of Sir Thomas Denman—it is a stream

“ ‘ Though deep yet clear, though gentle yet not dull,  
Strong without rage, without o’erflowing full.’ ”

Mr. DOUGLAS. I endorse heartily every word there is in that beautiful passage from Mr. Webster’s speech. I should like to know on what question it was made.

Mr. BROWN. On the Rhode Island question.

Mr. DOUGLAS. So I supposed.

Mr. SIMMONS. I thought so.

Mr. DOUGLAS. Then it was a speech against the right to change an existing constitution in opposition to the constituted government in existence, and is a beautiful authority against the right under the Leecompton constitution to change it in any mode except that authorized by the constitution, and I am very much obliged to the senator for having quoted it on this occasion.

Mr. BROWN. I quote the sentiment for what it says, that public opinion is to be ascertained under the forms of law, and not through mob meetings; I did not allude to the subject on which it was made, though that subject lies in the line of my speech, and I shall come to it by-and-by, if I can only be permitted to proceed without interruption.

Mr. DOUGLAS. I beg the senator’s pardon for interrupting him.

Mr. BROWN. Not at all.

Mr. DOUGLAS. I wish to state that I would not have interrupted him if he had not specially invited me. He said many things before in his speech to which I wished to reply; but I permitted them to pass in silence, because I did not wish to interrupt him. I will say to him now, while I am obliged to him for his courtesy, that I will not interrupt him any more.

Mr. BROWN. I have no objection to being interrupted on a point which I have reached in the progress of my speech; but bringing in outside matters, gentlemen must see, takes a senator outside of the line of his argument, and when he comes to publish it, it makes it cumbersome and unwieldy.

When these interruptions were interposed, I was about commenting on the charge (and I am doing it for the second time in answer to the senator’s suggestion, because I feel it necessary to put it in juxtaposition with what he has said on the oft-repeated charge) that the delegates to the convention disregarded the instructions and will of their constituents. I said yesterday, I say again to-day, that there is no charge coming up from those who supported Mr. Calhoun and his associates, that their will has been violated. Those persons in Kansas who are denounced by the senator from Illinois, by Governor Walker, and by those who have watched their course and conduct most critically, as traitors to the country, and who did not take any part in the elections, now come forward and complain that the delegates, not chosen by themselves, and at elections in which they took no part, have not fulfilled their pledges.

I undertake to say, as I said yesterday, as a Democratic senator, that I am responsible on party questions to the Democratic sentiment of my state, and to no other sentiment; and if I stand to-day under a pledge to my party to do a particular thing, and to-morrow they hold

meetings and absolve me from the obligation to redeem the pledge, then I am free, and no one else has the right to complain. Sir, it is a pretty business if the enemy may force a man to redeem pledges to his own friends, when his friends do not want the pledges redeemed. Now, I undertake to say that Mr. Calhoun and his associates were released in public meetings, by their friends, from any real or supposed obligations to redeem their pledges, and they never have complained. The complaint comes from a different quarter. It comes from men who are in open rebellion against the government there; who refused to take any part in the election; who trampled the authority of Congress under foot, and could only be kept down by the presence of an armed soldiery in their midst. I simply protest that they have no right to make complaints. If they have not, and if the constitution was made in accordance with the will of those who triumphed in the election, and was submitted so far as they required that it should be submitted, who else has a right to complain? I shall not go over all these points again.

Mr. President, if Congress has the right to reject this whole constitution, has it not a right to reject any part of it? Does not the major proposition include the minor? If you have the right to reject the constitution for any other reason than that reserved in the Constitution of the United States, to wit, that it is not republican, where are you to stop? If you reject the whole, cannot you simply reject the pro-slavery clause, or the bank clause, or the railroad clause, or anything else that may be objectionable to you? If you can, what becomes of the doctrine of non-intervention—this boasted doctrine that the people may form and regulate their domestic institutions in their own way, subject only—not, mark you, to your authority; subject not to the authority of Congress or the President; but subject only to the authority of the Constitution of the United States—that Constitution which affixes but one condition, that the constitution of the state asking admission shall be republican in form.

I have asked what becomes of the doctrine of non-intervention? And, I would ask, again, what becomes of this boasted doctrine that the people are to be allowed, in the name of popular sovereignty, to regulate their domestic affairs in their own way, if you are to interpose at every point to tell them what they shall do and what they shall not do, and not only what they shall do, but when and how they shall do it? It is well known that I have very little respect for the doctrine of "popular sovereignty." I always regarded it as a catch-word of politicians. I always believed that it would lead to mischief. It has led to mischief. What gives you your disturbance in Utah to-day but this clap-trap about popular sovereignty? You told Brigham Young and his deluded followers that they were popular sovereigns: that they had the right to do as they pleased: and they very naturally inquired, "if we have, by what authority do you assume to appoint a governor to rule us, judges to expound our laws, and marshals and sheriffs to execute them. We are popular sovereigns; these things belong to us." The President told them that they were popular sovereigns: the Secretary of State told them so; all the great men in the land told them so; and all the little ones, too, except myself and one or two others. They believed it, and because they believed it and acted on their convictions, you are going to do—what? Send an army there to shoot

them, every one. I am not interposing any apology for Brigham. I think he was a great fool ever to believe politicians, but I would not shoot him because he is a fool. I simply say that his course is a legitimate and fair consequence from the doctrines which you gave him. You told him that he and his people were sovereigns of the land, and he acted like a sovereign. He will not give up the office of governor to the President or anybody else, and he has turned your judges out of the territory. The same doctrine prevails in Kansas. Jim Lane and his followers think that they are popular sovereigns; that they have a right to do as they please; to overturn the lawful government if they are in a majority, and do it without going through the forms of law; that they have nothing to do but call a mass meeting at Topeka, resolve that they are a majority, then act on their resolves, and overturn the government. It is a very convenient way of solving a difficulty, I grant you; something like the old resolves in New England, when the people resolved that the earth and the fulness thereof was the Lord's and his saints, and then they resolved that they were the saints of the Lord; and so took possession of the land.

I said to the senator from Illinois, a short time ago, that the Rhode Island matter lay in the course of my remarks, and that I would come to it presently. I will take it up here. The difficulty as to the Rhode Island case, I apprehend, was that by the election laws of that state a very large portion of the people were disfranchised; that is, they were not allowed to vote. They had property and other qualifications there which disfranchised a large portion of the people. Those who were disfranchised, together with their friends who had the right to vote, had a majority; but of the voting population, a majority was opposed to changing the constitution. They appealed and appealed again for the privilege of voting, so as to show that the whole adult population of the state would change the constitution if the privilege was given them; but the legislature refused.

Mr. SIMMONS. If it is of any consequence at all to have the facts in the argument, I will tell the senator he is mistaken about the facts.

Mr. BROWN. Very well.

Mr. SIMMONS. If it is of no consequence I will not interrupt the senator.

Mr. BROWN. If I am mistaken in the facts as far as I have gone, of course I wish to be corrected.

Mr. SIMMONS. I stated the facts the other day, in the little allusion I had occasion to make to them. At the time those meetings were being held and before they began to be held, the government of Rhode Island had authorized a convention for the purpose of framing a constitution with the view of altering the matter; but in order to prevent that or to prevent another party from having the credit of it, these people began to roast oxen and have the sort of meetings which I described the other day. These are the facts, if they are of any consequence.

Mr. BROWN. Of course I shall make no point with the senator from Rhode Island as to the facts of that controversy. I was only stating them briefly as I understood them, by way of showing the ground for the position I was going to take; but I can do it as well without a recapitulation of the facts of that case. It is sufficient for me that the Dorr party in Rhode Island undertook to change the constitution of

the state, or to make a new constitution without going through the forms of law, and without legal sanction; and Mr. Webster, on that proposition, whatever may have been the precise facts of the case, pronounced the speech which has been read here to-day. Now, if the doctrine of popular sovereignty is to prevail, law or no law, then Dorr was right, because he and his friends constituted, as I understand, a majority of all the people, though they were not a majority of the voters of Rhode Island. If they could have voted, I dare say they would have appealed to the ballot-box. I always understood that to be the fact. Very many of them, as I said before, had the privilege of voting, but many of them had not. I do not pretend to say that Dorr did right. I think he did very wrong. I never sympathized with his movements, but I thought his party were an oppressed party. That was my opinion; but I saw only one way of changing the organic law or laws of any kind, and that was to do it in the mode pointed out by the law—through the peaceful agency of the ballot-box; and anything else is revolution.

But if the popular-sovereignty doctrine is to prevail, Dorr was right if he had the majority on his side. If he had the majority on his side, he had the right to control the government, law or no law, precisely as Brigham Young is trying to control the government of Utah, law or no law; precisely as Lane and his Topeka followers are undertaking to control Kansas, law or no law. They claim to be the majority, and it was to that point I wished to invite the attention of the senator from Illinois. It was to the point that these movements in Kansas were without sanction of any binding or valid law; that the law, so far as the constitution was concerned, had fulfilled its entire mission when the election was held and the votes returned, and by no subsequent act of the legislature could the constitution thus formed be overturned, and, much less could it be done through the agency of mass meetings or popular clamor. Therefore it was that I said to the senator that I choose to gather public opinion through the agencies appointed by law, through the ballot-box, and at the time and in the manner prescribed by the statutes. The Lecompton constitution has been adopted, if that be the rule. If, on the other hand, we are to take the Dorr rule, or the Brigham Young rule, or the Jim Lane rule, and appeal to the masses without law, then it may be that the constitution has not been adopted.

I have said, and I repeat, that the senator from Illinois brought forward the Kansas bill originally, and he, of all men, is called upon to make the greatest sacrifice to sustain it according to the letter of the law as drafted by himself. Whatever other men might do, it does not lie in the mouth of the senator from Illinois to avoid the force of the contract by any resort to special pleading. He, at least, ought to give it a fair and full and liberal construction, and mete out to us all that it gives, knowing, as he does, that his Democratic friends at the South accepted it with extreme reluctance. There is more than one senator in my eye who will bear me witness that I voted for his bill with extreme reluctance. I had seen how compromises had been construed away before; how compacts, into which we had entered, had been kept with Punic faith, and I was slow to go into it. I went for it as much because I thought I was following a gallant leader who, come

what might, would adhere to the law, and see that we had justice under it, as for any other reason; but when, as I think, he abandons it, my feeling of regret for ever having gone for it, is greatly quickened. For a long time I thought the senator did mean to give us the Kansas-Nebraska law in its purity. I recollect that when senators on the other side first raised the cry against the fraudulent territorial legislature, as they termed it—first denounced it as a bogus legislature, forced on Kansas by the people of Missouri—with what indignation the senator from Illinois rose to repel the charge; how stoutly he stood up for the legitimacy of that legislature; how he hurled the fire-brands back into the teeth of gentlemen. Still they make these charges; still they make it as the ground work of all their speeches, that the legislature was a bogus legislature. The junior senator from Illinois [Mr. Trumbull], in commencing his speech on this subject the other day, laid the foundation of it in the charge that this was a fraudulent and bogus legislature; that the laws which it had passed were no laws at all; and the charge yesterday was reiterated with greater earnestness by the senator from Massachusetts. Why was not the senator from Illinois [Mr. Douglas] then as quick as in days gone by to rise and repel these charges against this legislature? He had reported to Congress, he had time and again spoken to us, he had satisfied me at least, that it was as fair a legislature as ever was chosen, and as much entitled to make laws.

The principles of the Kansas bill were carried into the Cincinnati platform. There again they received the cordial approbation of the senator from Illinois. It was never until this constitution had been formed, and was upon the eve of being sent to us (for nothing was to be gone through with but the mere form of an election before the people on the slavery clause), that we heard the first complaint from the senator from Illinois, [Mr. Douglas.] Then it was that he interposed objection; and I beg leave to say to the honorable senator that while I accept as true all he has said to-day, still I think the facts justify me, and justify his southern friends, in believing that slavery has something to do with resistance even on his part. Mark you, I do not charge that it is so, because the senator denies it, and what an honorable senator asserts I will not deny where I have no proof; and I can have none in a case of this sort. I only state the facts as reasons for my own conclusions.

The senator complains, and has complained heretofore—perhaps it was not exactly a complaint, but he has said—that there was a disposition among some of his Democratic brethren to read him out of the party. I have no such disposition. I should part with him with extreme regret. I am sure there is not a Democrat in all the land who would not make any reasonable sacrifice to secure the fidelity of the senator, not only on this question, but on all other questions. But, Mr. President, this is a vital question; it is a question of vast magnitude; and even at the risk of being lectured again by the venerable senator from Kentucky [Mr. Crittenden], for whose judgment I have the profoundest regard on this and all other subjects, I will venture again to suggest that there are wrapt up in the destinies of this question the perpetuity of the Union itself. How do parties stand on this question? The National Democrats, north and south, are for the admission

of Kansas, with here and there an exception. The President is at our head, backed by a united cabinet. The Democratic presses throughout all the country thunder in our ears that a bill for that purpose ought to pass. Mass meetings being held in New York, Charleston, New Orleans, north and south, almost everywhere, urging the passage of it. Legislatures resolve in favor of its being passed—the whole party, in a word, north and south, is sustaining the measure, and the whole sectional Republican party on the other side opposing it. Sir, the spectacle which you have in this Senate is seen all over the country—the great mass of the Democratic party is on the one side, and the great mass of the Republican party on the other. The American party, what little there is of it, I believe is somewhat divided. It is a pity, too, for there is hardly enough of it to divide. [Laughter.]

Well, sir, this being the state and magnitude of the question—a question which involves the integrity of the Democratic party certainly, and which involves, in all probability, the perpetuity of the Union, the Democratic party standing arrayed on one side, and the Republican party on the other—where is the senator from Illinois? Is he on the Democratic side? Does he stand where he stood three years ago? Are his consultations with us? No, sir; he stands on this question with the Republican members. On this vital question—vital to the integrity and to the perpetuity of the party; vital, as I believe before God and angels, to the safety of the Union itself—the senator from Illinois has taken sides with the Republicans against the Democrats. If he is out of the party, it is not because he has been turned out, but because he has voluntarily walked out.

Mr. President, the constitution of Kansas is here, and, but for this debate, it would probably have been reported from the committee, and we should be called on, each and all and every one of us, to vote either to accept or reject it. I shall vote for its acceptance. I should vote for it just as freely if it were an anti-slavery constitution. If there was a total want of any word, sign, or syllable in it, from the beginning to the end, looking to the protection of slave property; nay, sir, if there were a total prohibition against slavery, I would vote for it. Why? Because that was the compact into which the senator from Illinois invited me, and into which I entered. I vote for it; I think he ought to do so; but if he will not, let it be otherwise.

Now as to whether the people of Kansas are to live under this constitution after it is made: they are to live under it just so long as they choose; but when they choose to throw it off and make a new constitution, and go to work according to the forms of law as it is written, they have the right to do it, in my opinion, without the slightest regard to anything that may be inside or outside of the constitution. I understand that the constitution secures the universal exercise of the elective franchise in the state of Kansas, that all men are allowed to vote. The senator has told us to-day—he has told us with equal emphasis on other occasions—that a vast majority of the people of Kansas are opposed to this constitution. If they are, let them manifest that opposition in some legal form. When the election comes on for governor and members of the legislature, if they have not already secured those officers, let them secure them; let a new convention be called; let the constitution

be changed; let it be made a free constitution as you call it, and I have not one word to say against it here or elsewhere. Let it be so.

MR. PUGH. Will the senator allow me to ask him a question at this point?

MR. BROWN. Certainly.

MR. PUGH. I wish to ask the senator whether he admits the right to amend this constitution as well previous to 1864 as subsequently?

MR. BROWN. I do. I would not care if it had declared on every page of it that it should be unalterable. I believe that the right to alter, and amend, and abolish forms of government is inherent in the people. All I demand is that the right shall be exercised under the forms of law, and not through mob violence—not in the mode of Dorr, and Brigham Young, and Jim Lane; but in the orderly, peaceable, and quiet mode in which constitutions have been changed in other states—New York, Massachusetts, Ohio, and everywhere else.

MR. PUGH. I did not interrupt the senator to make a controversy with him. I fully agree with him on the point; but I only wished to ascertain his opinion.

MR. TRUMBULL. Will the senator from Mississippi allow me to ask him a question?

MR. BROWN. Certainly.

MR. TRUMBULL. I understand him to say that he believes the people may change the constitution before 1864, provided they do it according to the forms of law.

MR. BROWN. Exactly.

MR. TRUMBULL. I wish now to ask him if any law passed by the legislature contravening that provision of the Lecompton constitution would have any force whatever? Would not that be in violation of the law, and would not every court be bound so to hold?

MR. BROWN. I did not expect to be asked to point out to the Republicans precisely how they could change the constitution; but still, if they ask me I will tell them. They can do it precisely in this way: if they have not already secured the governor and legislature, which I believe is a disputed question, and have that four-fifths or nineteen-twentieths about which the senator from Illinois is constantly talking, if they have that strength, when the next election comes on, just go the polls like peaceable, orderly, quiet citizens, and exercise the right of voting, elect a legislature, and elect a governor. Then let your legislature, being instructed as they would be by your people, that they wanted to change the constitution, appoint a day, not when they (the legislature) will change it, or when they will remodel it, or do anything with it, but when the people themselves can elect a convention which shall change it. The legislature has no power to change a line, word, or syllable in the constitution; but the legislature can appoint a day when the people may assemble, and under the forms of law elect a convention, which convention can change the constitution, even against the words of the constitution itself. I say again, when it shall be done I will defend it here and elsewhere, all over the land. I will stand by the President, who has already announced to the country that the constitution may be changed in this mode.

Gentlemen, you try to fan the flames of discord in the North in this wise: you say to your people there—some senator stated it the other



day, and I do not know but that it was the senator from New Hampshire [Mr. Hale;]—he is always saying something out of the way [laughter]—that whenever your friends undertake to change the constitution, party lines will be drawn, the party lash will be applied, you will be declared to be in the wrong, and the army will be sent to put you down. Sent by whom? Has not James Buchanan already announced to you in the message we are now discussing, that you have the right to make the change? Have you ever heard a southern man, in position here or elsewhere, declare that you had not the right to do it? Then why say the party lash will be applied and armies sent to put you down in Kansas?

Gentlemen, I am respectful towards my brother senators. I dare say you believe what you say, but you do make the greatest sacrifice of common sense to your candor that I have ever heard from any set of sensible men, when you profess to believe that the President of the nation would deliberately, in the face of his pledge to the contrary, send an army to prevent that very thing being done which he himself declares in his message can be done. If you have the power, exercise it. If you have the votes, put them in the ballot-box; take possession of the government, and God knows you are welcome to it; but so long as I have a tongue to speak or an arm to strike, you shall take possession neither of that government nor of any other through mass meetings held at Lawrence, Topeka, or anywhere else. Do it through the peaceable agency of the ballot-box, and I am content. Attempt it by any other agency, and I will stand by the President in sending an army to crush out your rebellion.

We have heard a great deal said in the course of this debate about apprehension of civil war, and bloodshed, and dissolving the Union, and all that. Sir, there is a sovereign remedy for all such apprehended evils. Obey the law, respect the Constitution, fulfil your contracts, and there will be no civil war; there will be no bloodshed; there will be no dissolution of the Union. Fulfil all your obligations to the laws and the Constitution, and to the contracts between the sections of the Union on the subject of slavery, and all other subjects, and I guaranty that your Union will stand for ever. Trample upon these obligations, and soon your Union will pass away as "the baseless fabric of a vision." In the future I see the Union standing upon pillars as firm as the eternal rock of ages; but I see it only through those paths which lead to the law, the Constitution, and the fulfilment of obligations. In a different direction I see it a dissolving Union; I see the stars of our galaxy being blotted out, and the sun of our glory running away as it were in rivulets of blood; and all this is seen over the traces of violated laws, prostrate constitutions, disregarded compacts.

Let me say, Mr. President, to the senator from Illinois, that on him rests a fearful responsibility. He is the author of this measure. He has stood by it until he has brought it to its present condition. He sees a whole united South arrayed on the one side, and he has thrown himself into the northern scale. Does he mean to array a whole united North against a whole united South? If this result shall ever be accomplished, it will be done, in my opinion, over laws violated, constitutions trampled under foot, and compacts flagrantly outraged. I will not be responsible for the consequences when this state of things shall be brought about. Let not the senator from Illinois suppose that I have meant to assail

him; that I have meant to join in any cry against him. Let him not suppose that I am pursuing him with any of the instincts of a blood-hound. Heaven knows I would to-day much rather embrace him as a friend than regard him for a solitary instant as an enemy. He knows how much I have loved him in the past. He knows with what fidelity I have followed his flag, and with what joy I have witnessed the rising star of his glory. But it is not in the name of these that I would appeal to the honorable senator. We have a country, a common country, a country dear to him and to me; to you, sir; to one and to all of us. That country is in peril. The hearts of stout men begin to quail. Thousands and hundreds of thousands of our people believe that the Union is even now rocking beneath our feet. The senator has it in his power to put a stop to all this agitation. If he will but say to the angry waves, "Peace, be still," calmness will settle on the great deep of public sentiment. Whether he thinks so or not, he is the very life and soul of this agitation. If he stood now where he stood at the passage of this bill, with his Democratic friends, supporting the strong arm of a President who dares to do his duty in defiance of all danger, there would not have been a ripple on the surface, or if there had been, it would have subsided and died away in the great ocean of oblivion where other ripples have gone, and we should almost without an effort introduce Kansas into the Union. Sir, the senator from Illinois gives life, he gives vitality, he gives energy, he lends the aid of his mighty genius and his powerful will to the opposition on this question. If ruin come upon the country, he, more than any other and all other men, will be to blame for it. If freedom shall be lost—if the Union shall fail—if the rights of man shall perish on earth—if desolation shall spread her mantle over this our glorious country—let not the senator ask who is the author of all this, lest expiring Liberty, with a death-rattle in her throat, shall answer to him as Nathan answered David, "Thou art the man."

Mr. HALE. I do not intend to occupy the time of the Senate more than a few minutes; but if the honorable senator from Mississippi will give me his ear, as he thinks I am always saying things out of the way, I want to put a question, so that I may be able to keep in the way hereafter. I wish to ask him whether or not, if the constitution of Kansas, or any other state, comes here correct in all its forms, so far as paper and ink are concerned, is it competent for the Senate or Congress to look behind the forms to facts that are not patent upon the papers which are presented? That is the simple question I wish to ask, and I believe it is pertinent to the train of argument in which the senator has been indulging. If a state comes here applying for admission with everything, so far as paper and ink are concerned, so far as is shown on the face of the papers, all correct, and it is contended and admitted that there has been a fraud, is it competent for Congress to look behind and beyond the returns, to that fraud, on the question of admission?

Mr. BROWN. Unquestionably, if it is a clear and palpable case of fraud. If one man, for instance, should to-day make out a constitution for Nebraska, or make out a constitution for Oregon, and should present it here, and the charge should be distinctly made, it would be competent to inquire whether it was not a fraud of that sort. Unquestionably it would.

Mr. HALE. I do not wish to be left in doubt. The senator says it would be competent to inquire, if the fraud were clear and palpable. A thing that is clear and palpable, exists on the face of the papers. My question is not as to a patent fraud that is palpable on the face of the paper; but where the allegation is that there is fraud behind the paper, and though the figures are well enough. It is said that "figures cannot lie;" but it is forgotten that those who make them can. My question is, whether the paper and figures, being right, yet there being a suggestion that there is a fraud behind—not patent, not palpable—in that case the Senate can go behind it? That is the question.

Mr. BROWN. I am not prepared to answer a question which has such latitude as that. I dare say a case could be supposed where I should say they could; but I think they should proceed behind the presentation of the constitution with exceeding caution, and never to the point of inquiring into the validity of an election. I do not think that proper. The convention must necessarily be the judge of the qualification and election of its own members; and, except in a case of very extreme and outrageous fraud, palpable and clear, we ought not to go behind that. I am not prepared to say that, in such a case, you cannot inquire into such an election; but an ordinary inquiry into the validity of an election, I hold is beyond our power.

Mr. HALE. I am satisfied.

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## MINNESOTA SENATORS.

SPEECH IN THE SENATE OF THE UNITED STATES, FEBRUARY 25, 1858, ON  
THE PROPOSITION TO SWEAR IN MESSRS. SHIELDS AND RICE, SENATORS  
FROM MINNESOTA, ELECTED PREVIOUS TO HER ADMISSION AS  
A STATE INTO THE UNION.

Mr. PRESIDENT: I quite concur with the senator from Georgia, that this whole question turns on the point whether Minnesota is a state of the Union. If she is, then it was clearly the right of the senator from Kentucky this morning to move, as he did, to swear in her senators, as much so as it would be the privilege of the senator from Texas to rise to-morrow morning and move to swear in his absent colleague who has not yet taken the oath. It is not technically a question of privilege; it is rather what we call, in parliamentary law, a privileged question. The distinction is not worth drawing here, perhaps, but still there is a distinction.

Now, is Minnesota a state of the Union? She is not. I shall vote for the resolution proposed by the senator from Georgia; but I do it in deference to the judgment of other gentlemen, and to get clear of the question now, and not because there is one single shade of a shadow of doubt on my mind on the subject. Minnesota is not a state of the Union. If she is, she must have been made so by the enabling act. There is no pretence that she has become a state in any other way. Who knows? How has it been congressionally ascertained that she has complied with the enabling act? Where is the judgment on that subject? How has it

been ascertained that her constitution does not infringe or violate the Constitution of the United States? When was it ascertained and put upon the record that her constitution is republican in its form? All these things may be true, but they have not been ascertained. There is nothing on the record to show that they are true. Where is the evidence, that in fixing her boundaries she has not run into the adjoining states, and cut off a part of Iowa and Wisconsin? Has it been ascertained that that is not true? Suppose, without inquiry, just by virtue of the enabling act, she is now in the Union, and it turns out that her constitution is not republican in form, that her boundaries violate the boundaries of the adjoining states, that she has in other respects violated the Constitution of the United States: then what? Is she out of the Union? Do you break up the Union by turning her out to-morrow as soon as you ascertain that these things are true? If she is in the Union, she is in from the day her constitution was passed by the members of the convention which made it, for you have done nothing to give sanction to it since that. If she is in by virtue of the enabling act, she is in from the very hour when the convention made the constitution; and then I suppose the very instant you find out that her constitution is in violation of the Constitution of the United States, she goes out. That is dissolution.

I speak of these matters simply to show what strikes me to be the absurdity of declaring a state in the Union in this sort of informal way. If she cannot be in the Union with a constitution anti-republican; if she cannot be in with boundaries which infringe the boundaries of other states; if she cannot be in because her constitution provides for orders of nobility, stars, and garters, and all that; if she cannot be in for any one of the hundred objections which I could name, then there must be a necessity for ascertaining that these objections do not exist before she is in at all. Who has ascertained it? It is the duty of Congress under the clause of the Constitution, which authorizes it to admit new states, to ascertain all these points. When they have done it, and put that ascertainment in the form of a judgment, on the records, the state is in, and not till then. About this I have no doubt, and I am astonished to find that anybody else has; but still, in deference to the opinion of other gentlemen, and to get clear of the question, I will vote for the resolution of the senator from Georgia.

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## REPRESENTATION OF MINNESOTA.

SPEECH IN THE SENATE, MARCH 29, 1858, ON THE REPRESENTATION OF MINNESOTA IN THE SENATE AND HOUSE.

I INTEND, Mr. President, to vote for the amendment proposed by the senator from Massachusetts. It commends itself to my judgment as right. The second section of the bill proposes to admit the new state of Minnesota with one representative. To that she is clearly and distinctly entitled. It then goes further, and says that she shall have such additional representatives as the census already taken shall show her to be entitled to. That return shows, technically, that she is entitled to no

additional representative; but it shows that she has more than a majority of the quota. If we are to follow the precedents set us in the case of California, and the case of South Carolina, she is entitled to one additional representative. I will mete out to this young sister that justice which has been meted out to other sisters of the confederacy. I am prepared to vote for a representative for her fraction, because it was given to South Carolina, and given to California, and it is fair to presume she is as well entitled to it as either, or both of them.

Then it may be inquired why I vote for this amendment, seeing that the census has been taken, and that, according to the returns, there is only population enough to give her one representative, and one for a fraction over a majority of the quota? I do it because leading citizens from this state, leading friends of the state in both Houses of Congress, assert that the census was improperly and imperfectly taken; and say that if there had been a proper and perfect enumeration of the inhabitants, she would have shown herself entitled to three representatives. I know not whether that be so or not; and in the important matter of apportioning representation, I will not guess at the amount of population. I cannot do it, and will not do it; but when we have so much evidence that the state has population enough to entitle her certainly to two, and in all probability to three representatives, and a proposition is brought forward to take a new census, to show whether she is not entitled, by a fair enumeration of her people, to another representative, it is harsh treatment to say that you will refuse the small outlay in money which it will require to re-enumerate her inhabitants. What is there in the proposition? It will perhaps cost you fifteen or twenty thousand dollars, in hard cash, to take a re-enumeration of the inhabitants of this state, and that is all it will cost. Will you weigh that amount of money against injustice charged, and charged, doubtless, conscientiously in the judgment of many, as having been committed against this state?

Now, sir, I want a minute more to vindicate myself from any portion of the responsibility, which may seem to be heaped upon me, growing out of the repeated declaration that Texas was admitted here with two representatives without an enumeration of her population, and California without it too. It is true you did introduce Texas with two representatives, but how? She came here as an independent republic, saying, "if you will receive us as we propose, we will come into the Union; but if you will not thus receive us, we will stay outside of the Union." It was no admission of a new state. It was a proposition on the part of an independent republic, upon terms proposed by herself, to come into the Union. If you chose to accept them, well; if you had not, just as well. In the case of California, I know you did introduce a state without an enumeration of the people, and did it wrongfully. I, and others who stood by me at that day in opposing it, predicted that that would afterwards be claimed as a precedent, and that other states would ask admission on the same principle.

I was against the admission of California with two representatives. I am against the admission of Minnesota with three representatives. I am for admitting the state, but I repeat to senators now, what I said three weeks ago, that, with my consent, Messrs. Shields and Rice shall not take a seat on this floor, under the late election, friends or no friends. I would not care if they would vote a thousand times over for the admis-

sion of a thousand such states as Kansas. I will not vote to introduce them into the Senate under their late election. States have the right to elect senators; territories have no such right. Was Minnesota a state in the Union when she elected these gentlemen to the Senate? No. The whole record, this day's debate, shows that she is not now, and was not then a state. Then under what clause of the Constitution did she elect senators and accredit them to this body? Under what clause of the Constitution did she elect representatives? She is entitled to her delegate as a territory; and she is entitled to nothing more. I shall not vote to introduce her members here; and if I were a member of the House of Representatives, it would not matter a fig whether she claimed one, or two, or three, or twenty representatives, I would vote to admit none of them.

I understand that a state must be clothed with all the immunities, privileges, rights, and dignities of a state before she can elect a senator. Sir, this thing has been peddled down low enough; it is disreputable; it is treating the older states of the confederacy with less dignity than they are entitled to, to allow territories, in advance of their coming in as states, to elect senators and send them here. Then what have we got before us now? A proposition, taking Minnesota and Kansas together, from the venerable and distinguished senator from Kentucky, in advance of the admission of this state, to receive her senators, and then, right upon the back of that, to admit the state. And then we have, as to Kansas, a proposition to admit her in one sentence, and then allow herself to turn herself out in the next, to declare that she is in the Union; and then leave it to her own people to say whether she is in or not. Why, upon my soul, sir, I cannot see where we are going. You admit Kansas to-day, you admit her and declare her in the Union, and allow her to resolve herself out to-morrow. It seems to me that this involves us in unmistakable difficulty. When a state is fairly in the Union, a member of the confederacy, let her elect her senators and her representatives, and do not permit her to do it before. When she is once in, she can get out but by one mode, and that, let me tell senators, is by the peaceable process of secession.

But, sir, I rose simply to say, that inasmuch as this amendment proposed nothing but to re-enumerate the inhabitants of Minnesota, I shall vote for it. I thank the senator from Massachusetts for bringing it forward. It is just to Minnesota, and ought to be adopted.

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## ALIEN SUFFRAGE.

SPEECH IN THE SENATE OF THE UNITED STATES, APRIL 7, 1858, ON INDIAN AND ALIEN SUFFRAGE IN CONNECTION WITH THE ADMISSION OF MINNESOTA.

I WISH to express my concurrence in the main views of the senator from Texas. I think his position exactly right. He votes for the admission of Minnesota, with a protest against the improper features of her constitution. I join in that protest; and if I had the slightest

dream that my vote was to be construed into an endorsement of the constitution, I would withhold it, or put it upon the other side. But I desire to ask the senator from Texas whether he approves of that other remarkable feature of this constitution, upon which he did not comment, which grants to Indians who have adopted the habits of civilization the right of suffrage. My friend is the especial champion of the aboriginal tribes here, and whenever you strike an Indian you seem to make a personal issue with my friend.

Mr. HOUSTON. The gentleman has not been suspected of striking at Indians himself. Though he lived in their neighborhood, I always understood him to be very kind to them. I will assure him that I do most cordially approve of the provision. I think it very important. I will barely remark that those Indian tribes who had opportunities of organizing themselves into communities, are quite as civilized and as well regulated as we are ourselves, and I think it well to encourage them whenever they evince a disposition to become civilized and christianized.

Mr. BROWN. That is well enough as a sort of general reply; but the language of the Minnesota constitution is that Indians who have adopted the habits and customs of civilization shall be allowed to vote. That kind of phraseology, it seems to me, lets in all the Indians of the country. All you have to do is to catch a wild Indian in Minnesota, give him a hat, a pair of pantaloons, and a bottle of whiskey, and he would then have adopted the habits of civilization, and be a good voter. [Laughter.] Whole tribes will be carried up to vote in this way.

Mr. HAMLIN. That is the way they did vote.

Mr. BROWN. The senator from Maine says that is the way they did vote. This, however, is the business of Minnesota, not mine. I think it all wrong; and if I had any power to correct it, or any right to interpose, I would do so. This feature of her constitution is infinitely more objectionable to me than that one which tolerates foreigners in exercising the right of suffrage. I agree with the senator from Texas, and other senators, that men who have not taken the oath of allegiance to the government, ought not to participate in its elections, state or national; but I would much rather—and there I differ from the senator from Texas—give to the least gifted of those who come to our shores, or, in the language of the senator from Tennessee, who are drifted here, and the least educated of them, the right of voting after they get here, than to confer the same right on these breechless savages, who are made to adopt the habits of civilization, in the language of this constitution, on the day of election, by putting on the garb of white men, to be doffed the hour after the election is over.

But I know of no way by which you can correct this evil; I know of no authority in Congress to strike this clause from the constitution; and if you had the power to do it, I know enough of the relations existing between the federal and state governments to know that, if Minnesota is in love with it, she can put it back to-morrow, and then, being entirely independent of the action of Congress, it would remain there. I simply content myself, therefore, with protesting against it, and protesting that no one is to assume that I endorse it when I vote to admit this state into the Union.

While I do not concur in the reasoning of the senator from Texas, I do concur in his main conclusions. I think that a state may authorize

a foreigner to vote without his being naturalized; I think a state may authorize a civilized Indian to vote; but certainly it is going a great way to assume, that when he has simply adopted the habits of civilization you are to allow him to vote, without defining what shall be considered an adoption of the habits of civilization. If he is not taxed, you cannot enumerate him; you cannot even count him in making up the sum of population; and yet he can vote. You give him the right of suffrage, and you do not even enumerate him as one of the population of the state. That is carrying the thing a great way. But if he is a foreigner inhabiting the country, you must enumerate him; and if the state chooses, it may confer on him the right of suffrage; but the right conferred in Massachusetts cannot be carried by the same man to Virginia, unless he has taken the oath of allegiance. It is a citizenship of the United States, and not of a particular state, that confers on him the right of suffrage. If he be a citizen of the United States, then he may be a citizen of any one of the states, and must stand upon the same footing in Virginia that a native son of Massachusetts would stand.

I understand that clause of the constitution quoted by my friend from Tennessee, to mean that Virginia cannot make a distinction between the adopted and native born citizens of Massachusetts; that she cannot confer a privilege on the senator from Massachusetts, and deny the same privilege to a citizen of that state, who has been naturalized under the laws of Congress, though he was born in France, or Spain, or Ireland. If he be a citizen of the state, without regard to birth, he carries with him all the privileges of any other citizen. No distinction is to be made in Virginia between citizens of Massachusetts, of native or of foreign birth. That is what I understand by it. In other words, Virginia cannot say that the native born citizens of Massachusetts shall vote, and that the adopted citizens, if they are citizens of the United States, made so under the act of Congress, shall not vote; but if they be simply and alone authorized to vote by the laws of Massachusetts, then they do not carry that local right to any one of the other states: that is not being a citizen. The right of voting and the rights of citizenship are two things separate and distinct. The right of suffrage does not necessarily involve the right of citizenship. The right of citizenship does involve the right to vote, because that is a right which belongs to every citizen, and cannot be taken from one class and denied to another class—that is all. You cannot deny the naturalized citizen the right of suffrage, and give it solely to the native citizen. One single state might do it, but still that naturalized citizen, if he went to any other state, would not carry with him that disability to the state in which he went. It is a disability which simply attaches to him in his locality.

MR. STUART. If I understand the senator from Mississippi—and I really wish to understand him on this point—I quite agree with him. My position is, that every state has a right to say who shall exercise the right of suffrage.

MR. BROWN. Certainly.

MR. STUART. Now, sir, if a man is a citizen of the United States by naturalization, and has certain rights in Massachusetts, he does not carry with him into Mississippi any of those rights, unless Mississippi chooses to give them to him.—I mean the right of suffrage. Mississippi may say that, of the two men going from Massachusetts, one a natural



born citizen, and the other a naturalized citizen, the one who is a citizen by birth may vote in Mississippi; and the other, who is a naturalized citizen, shall not. I think it is competent for Mississippi to say so.

Mr. BROWN. Then we differ. I hold that, if they are citizens, you have no right to apply the rule; otherwise, it will not make them equal. But they must be citizens of the United States. As to what may constitute, in the technicalities of local law, citizenship in a state, that is a different matter. But when a man is a citizen of the United States, native-born or naturalized, I hold, if he and a native-born citizen pass from one state into another, the state into which they go has no right to make distinctions between them on account of their birth. That is my doctrine. If they are citizens of the United States, one native-born and the other adopted according to law, and pass from Massachusetts to Virginia, I maintain that Virginia cannot then make a distinction between them. She must treat them alike.

But I did not rise to discuss the question. I only wanted to sound my friend from Texas, and I am sorry I have been betrayed an inch beyond that—to know what he thought of letting Indians vote.

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## ENGLISH BILL.

SPEECH IN THE SENATE OF THE UNITED STATES, APRIL 29, 1858, ON  
WHAT IS COMMONLY KNOWN AS THE ENGLISH BILL, OR THE REPORT  
OF THE COMMITTEE OF CONFERENCE ON THE DISAGREEING  
VOTES OF THE TWO HOUSES ON THE ADMISSION OF  
KANSAS INTO THE UNION.

MR. PRESIDENT: I desire, in a few words, and without making a speech, to assign the reasons why, if we are ever brought to a vote, I shall record mine in favor of this proposition. I must say, in the outset, that I do not like it; there are a great many reasons why I do not; but as I have brought my mind to the conclusion to vote for it, I shall not assign the reasons why I do not like it, but rather assign the reasons which influence me to vote in its favor.

The first is this: that we settle this question; and better on these terms, than leave it open. I can see, if left open, that it is to be made the fruitful source of discontent and strife, and of political turmoil perhaps for years to come. I can see how, in very many ways, it may endanger, seriously endanger, the perpetuity of the government itself. As long as the question is kept open it must continue to irritate the feelings of the people of the two sections of the Union. Until this question is settled, you cannot begin to have a reconciliation on that great controversy which has been going on for years and years between the North and the South. This question is a thorn which rankles in the side of the nation. You must extract it, or you can have no permanent peace. If I had no other reason for going for this bill, I would do it for that and that alone. It is a peace measure; it brings healing upon its wings; it brings the different sections of the country in closer neighborhood, in better fellowship.

How much is there in the bill to forbid our taking it? First, it is said by some of those who vote against it, that it is a submission of the Lecompton constitution to the people of Kansas. And then again, others vote against it because it is not a submission. I mean to state my own views with perfect candor and with entire fairness. I do not understand it to be the submission of the constitution to the people, but I do understand this to be true, that you submit collateral questions—the land question, and others involved in the Kansas ordinance—to the people of Kansas; and that if in voting upon those questions they choose to determine that they will not come into the Union under the Lecompton constitution, they have the right to do it.

They pass no judgment directly at the polls on the constitution, one way or the other, but each voter can control his own vote by his own reasons; and if he chooses, under cover of voting to sustain the ordinance, to vote against the whole constitution and against coming into the Union, he can do so; and if a majority take the view of the subject, the state is not in the Union.

That much in fairness and candor, for thus stands the question, if I properly comprehend it.

Now what just ground have we southern men to object to that? What just reason is there for our opposing it? We took the ground in the beginning, and maintain it now, that we would not and will not sustain a submission of this constitution to the people under the circumstances of its coming here. But we took the ground at the same time that we would not sanction this ordinance, making, as it did, exorbitant land demands upon the government, and setting up other pretences which had not been tolerated in the admission of other new states. From the beginning, the friends of the Lecompton constitution struck at that ordinance, determined not to receive it, and not to give it their sanction. The original Senate bill declared that it was no part of the constitution, and could not be so recognised by Congress. After we made that declaration, I apprehend, if the bill had passed, it would have rested with Kansas to decide whether she would organize under the constitution or not; whether she would come into the Union or be considered a member of it. You had stricken off her ordinance. You chose not to regard it as a part of the constitution. But did Kansas so regard it? She did not. You struck it off without her consent. She thought it a material part of her proposition.

Then was she in the Union? She was not, until, either by silent acquiescence in your action, or by some positive declaration of her own, she placed herself into the Union. I hold that if you had passed the regular Senate bill, and Kansas had refused to organize a state government under the Lecompton constitution, and under that bill, there would have been no power in this government to force her, and therefore that she would not have been in the Union. She would not, because you had not met her proposition, and she had not accepted yours. Your minds had not agreed. She would not accept the proposition you had sent to her. You had changed her proposition so far as to strike off her ordinance, and she had not agreed to have it stricken off.

Then it rested with her to say whether she was in the Union or not; and what does this proposition amount to? It simply declares that Kansas may determine for herself whether she is in or out of the Union

—a right which she had without your saying so; and which she would still have, whether you said so or not. You do not, by this declaration, confer any right on Kansas. You simply recognise a right which already exists, and which, if she chose, I repeat again, she could have exercised without your consent, just as well as with it. When this debate first opened, the senator from Michigan [Mr. Stuart] employed this language on this point: "They," meaning the people of Kansas, "are arming; they are determined to resist an admission under this constitution, by any and every power with which God has clothed them; and yet we are to sit here and say, 'we admit you into the Union of the United States.' As well might you take a prisoner, under the sentence of a court of justice, handcuffed, with your officers surrounding him, by force to the prison, and say to him, 'there is no coercion; we admit you into the penitentiary.'"

I thought then, sir, and so declared, that there was no power to force Kansas into the Union. If she proposes to come in, and you accept her upon the terms which she proposes, then she is in, and she cannot recede. But if she proposes to come in, and you alter her proposition, then it depends upon her to say whether she accepts or rejects the alteration. That right, I repeat again and again, she has, whether you admit it or not.

To reduce it to a simple question of law, suppose you and I, Mr. President, have dealings in reference to an estate, and we agree upon the terms; I draw the bond or the deed, and attach to it a memorandum, or condition, or ordinance, explaining what I understand to be the meaning of the paper, how I expect to see it executed, and send it to you, and you sign it, but strike out the memorandum, or condition, or ordinance: I ask any lawyer whether the contract is binding on me until, either by silent acquiescence, as by proceeding to execute it, or by some positive declaration, I make it my own deed? Just so with Kansas. She sent you a constitution; she sent along with it her ordinance, the memorandum which explained the reasons why, and the terms upon which, she proposed to enter into the bargain, and become a member of the Union. You choose to strike the ordinance out; you choose to strike it from the constitution. Then I hold, as a simple legal proposition, she had a right to say, "you have changed the terms upon which I propose to come in: I will not come in; I choose entirely to recede from the proposition." It does not depend on you, sir, as one of the contracting parties, to say whether she shall recede or not; the right exists independent of you. If you meant to bind Kansas absolutely, you should have accepted her proposition *in totidem verbis*. You could not strike out what you did not like, stand by what you did like, and still insist that Kansas was bound by her proposition.

But, Mr. President, how am I to understand senators? The senator from Illinois [Mr. Douglas], who has just closed his speech, opened the session with an argument in favor of submitting this constitution to the people of Kansas for their reception or rejection; yesterday, in a colloquy with the senator from Ohio [Mr. Pugh], he said no state ought to be admitted until she has the requisite population to entitle her to one representative, and he repeated the declaration, with some qualification, to-day. Now, what does the bill before us propose? According to the argument of the senator from Michigan [Mr. Stuart] yesterday;

according to the argument of the senator from Illinois to-day; according to the argument of nearly all the gentlemen on the other side, this bill proposes to send back the constitution, and give the people of Kansas an opportunity to accept it or reject it, as they choose. It is true, the honorable senator from Illinois says you put them under some sort of compulsion; but he does not pretend to deny that they will have the power to reject, under this submission, if they choose to do it. Then, if they do, what follows, according to this bill? That they shall not come into the Union until they have the ninety-three thousand four hundred and twenty population requisite to entitle them to one representative under the existing ratio. And yet, Mr. President, when both these propositions are before us, one to submit the constitution for rejection or submission, as gentlemen argue, and the other to reject the state entirely until she has the requisite population—they being, in plain English, the two propositions of the senator from Illinois himself, embodied in the same bill—he rejects them both. In the name of popular sovereignty, he rejects two of his own propositions, either of which he thinks would be just to the people.

Under this bill, as I have admitted, and as other senators have claimed in broader language than I have, the people of Kansas may, if they choose, accept or reject the Lecompton constitution. The senator thinks they ought to have a right to reject it or accept it; or, if that be denied them, that the people be authorized to form a state constitution only when they have the full ratio of representative population. Very well; this bill takes both horns of the dilemma; and yet the senator rejects it. For myself, I am free to say, I hope the people of Kansas will, if this bill passes, adhere to their ordinance, and insist on remaining out of the Union. If they come in they must come in under the Lecompton constitution; if they stay out they must stay until they have the population to entitle them to one representative in Congress. That suits me. I close in with that offer.

But, says the senator from Illinois, this land grant is a bounty held out to the people of Kansas to accept this constitution—a bribe, as it has been elsewhere termed. How, sir? It reduces the amount of the grant claimed in the ordinance by more than twelve million acres. The senator from Michigan, in a carefully prepared table, which he introduced into his speech delivered on December 23d last, shows that the whole grant was upwards of sixteen million acres; that the railroad grant alone was upwards of seven millions. I understand from the senator from Missouri [Mr. Green], who brought forward this bill, that he has had a calculation made, and that the grant proposed for all purposes is about four million acres. And yet when you reduce the grant from sixteen millions to four millions, the senator from Illinois comes forward, and says that is a bribe held out to these people to accept the constitution. It is a queer way of bribing them to offer twelve million acres of land less than they claimed in their ordinance.

Mr. President, so far as I am concerned, I am willing to deal fairly with this young state. I have dealt, so far as my vote went, fairly with other states in reference to these grants; but I never saw the moment, from the first introduction of this constitution down to the present time, when I would have conceded to Kansas all that the ordinance attached to her constitution claimed for her. She had no right to set up any

such claim. And if it be called compulsion, as the senator has intimated, to refuse admission to this state unless she will yield her exorbitant demands, I deny it. If it be said that in one sense this is a bribe, and in another sense it is an attempt to coerce Kansas, I deny as much the one as the other. It is no bribe, for the reason I have shown you. It is no compulsion, because Kansas has no more right than other states have had to make these exorbitant demands. Why, sir, if she can claim sixteen million acres, and say she will not come into the Union unless she gets it, why cannot she with the same propriety claim sixty or one hundred million acres of your lands, or claim them all? She may justly claim to the outer verge all that has been granted to the other young states, but she can claim nothing more. Whatever she gets beyond that must be by the grace of Congress, and not because she has a right to demand it. I simply protest that it is no compulsion to say to Kansas, "we refuse your demands; if you are not willing to come in as other states have come, then stay out."

I shall be glad, Mr. President, to see this question settled on the terms proposed in the present bill, although, as I said, I do not like the terms. I suppose no southern senator does; very few northern men do; but I have been so accustomed to vote for things that I do not precisely like, that I have no great trouble in bringing my mind to the conclusion that I ought to vote for this. If I voted for nothing except that which I think precisely right, which commended itself in all respects to my judgment, I should be found on the negative side of most of your propositions. I believe that this measure will have a tendency to heal pending difficulties; that it will bring peace and quiet, to some extent, to the country; that it will open the way for a permanent and lasting peace between the sections; and, if it have that effect, objectionable as it may be to me in many of its features, I shall feel justified in voting for it. If it fail in all this, I shall justify myself to my own conscience and the country on the ground that I so meant it—that it was so designed. If it fail of its objects, that will not be my fault. It is as good a proposition as the original Senate bill. Nothing so good can now be obtained. It will do for all sections of the country—for the South as well as for the North; and it is not decidedly bad for either.

The features of this bill have, in many respects, been changed from the original Senate bill; but I have not seen that they have been changed for the worse; I rather think they have been improved. We have certainly got clear of some objectionable points, and we have brought into bolder relief others that are bad, but which a close observer would have found in the original. On the whole, for the reasons I have given, and for others, which the time and place and surrounding circumstances forbid me to give, I shall vote for the bill; and I send up my devoutest prayers that it may pass.

## ADMISSION OF OREGON.

SPEECH IN THE SENATE, MAY 6, 1858, ON THE ADMISSION OF OREGON INTO THE UNION.

I RATHER think, sir, that I shall vote against the admission of this state, because, if our Republican friends desire to exclude a free state from the Union, it does not seem to me that I, representing a different interest politically, should interest myself particularly to get in such a state. If they asked for the admission of Oregon as a free state, I probably should waive minor points, and go for the bill. If they put it distinctly on the ground that Kansas had been admitted as a slave state, and that now justice and propriety require Oregon, under similar circumstances, to come in as a free state, I could waive all minor considerations, and take her in; but if they resist it, I rather think I shall go with them. It is no business of mine to be multiplying free states; they are against my interest, and against the section of country from which I come.

But, sir, there is a point in this debate that I do not exactly understand. Senators on the other side seem to be quite satisfied that Oregon has excluded slavery, but they go a step further, and object that she has excluded free negroes. It looks to me as if gentlemen from the free states are getting exceedingly anxious to multiply their free negro population. I thought there was some opposition in most of the free states to an increase of this kind of population. If there is a change of policy in that respect, I meet it half way. We have a large number of free negroes in my state of which we should be very glad to get clear, and if it be really true that gentlemen from northern states want them quartered off on the free states of the Union, upon the young ones, and, of course, upon the old ones, then I shall urge a proposition to send all ours to Massachusetts and New York. [Laughter.] We have some four thousand or five thousand, perhaps as many as eight thousand in Mississippi. We will divide them between New York and Massachusetts, and my good-natured friend before me [Mr. Wilson] can take charge of his part, and the senator from New York [Mr. Seward] can take charge of his part. Heretofore I have always understood that gentlemen from the Northern States were opposed to receiving this class of population. I have always known that they were anxious to make negroes free, and when they were free, I have understood they were very anxious to get clear of them. [Laughter.] I have known that a northern man would rise late at night and burn his last candle—I do not mean the whole northern people, but a large portion of them—to make a light by which he could see his way clear to pilfer somebody's negro; but if you send him one perfectly free, born so, he would turn him loose, and have nothing to do with him. An old gentleman in my state, a member of our legislature, suggested a good idea when they were talking of getting clear of our negro population. He said: "I will tell you exactly how it can be done; take them two and two, handcuff them, take them up to the Kentucky shore above Louisville, advertise them for sale, and the

Abolitionists from Ohio will come and steal them; but if you send them over without shackles they will not have them on any account." [Laughter.]

What a mockery is all this sympathy with the negro, with his hard estate, with having him a free man equal to the white man, and yet northern gentlemen will no more allow him to go into their states than they would allow a pestilence to come in if they could prevent it! They are willing to force them off on somebody else—to force Oregon to take them. I appeal to the senator from Massachusetts, now, are you willing to have the free negroes of the South quartered off on Massachusetts? I may ask that question of the senator from New Hampshire [Mr. Hale], who is about to speak. I see it working in him, and he will get it out directly. [Laughter.] I ask him whether he would be willing to see all the free negroes of Mississippi and Louisiana quartered off on New Hampshire? I dare say he will answer, with his usual frankness, that he would not. Where, then, are they to stay? You insist on sending them to Oregon, forcing them on another people against their will, but you are not willing to take them yourselves. We are willing to keep our part of them until they choose to go somewhere else voluntarily, and when they go, we insist that they shall have the right to go.

I say again, I rather think I shall vote against the bill; but if gentlemen on the other side will say that they are willing to take Oregon as a free state, and make no opposition to it, I do not know but that I may get over my little scruples, and vote for it; but I am not going to force on myself another free state. I am not going to beg you to take another free state. If you ask it, and ask it genteelly and cleverly, I think we shall let you have it; but we will not beg you to take it.

## INCREASE OF THE NAVY.

SPEECH IN THE SENATE OF THE UNITED STATES, JUNE 7, 1858, ON THE INCREASE OF THE NAVY.

I THINK, sir, the Senate will bear me witness that I do not belong to the category to which the senator from Tennessee has alluded—the war-making portion of the Senate. Since this English difficulty has existed, I have not said one word about it. I have purposely abstained from doing so; and therefore no part of the remarks on that point, of the senator from Tennessee, has the slightest reference to me. I shall vote for this amendment with great pleasure. I should vote for it with more pleasure if it proposed to build twenty instead of ten ships. As to the size of the ships, I am unable to say, now, whether they are a proper size or not, and should be just as little able to say it the next year or the year following. The capacity of ships must necessarily be determined upon by those who have the command of them, and those under whose supervision they are to be placed. It is impossible that I can ever understand what sized ships are best for naval purposes. I assume, necessarily, that the naval committee, charged with the settlement of that question, the Secretary of the Navy, and officers of the navy, who

have been called into consultation, have properly considered that subject, and have made a proper recommendation. I feel that your navy is too small; that there is a necessity for increasing it—a necessity which has existed for years, and exists in greater force now than at any former period. If the Secretary of the Navy, the naval committee, and the naval commanders, have made a false or improper recommendation as to the size of the ships, the responsibility must be upon them. If I could be better instructed at the end of six months than I am now, I might say, let us wait a little while; but I shall not be. At the opening of the next session you will have to rely on the same sources of information on which you rely now, because each individual senator for himself can have but very slight information on a point of this kind, and he would not like to risk his own individual opinion against the opinion of the Secretary, the committee, and the officers of the navy.

The senator from Virginia says, that at another time, when the treasury is full, he will be willing to vote for this supply. When will the treasury be fuller than it is now? No man can tell. When can you borrow upon better terms than you can borrow now? Your credit, instead of rising, in case you get into difficulties with Great Britain, will fall, and fall rapidly. Instead of being able to borrow at three or four per cent. then, you will have to borrow at ten, fifteen, or twenty per cent., and perhaps at a higher rate. You now borrow because you choose to do it. Get into a war with England, and you will borrow because you are forced to do it; and a forced loan, a loan when you are compelled to have it, is always obtained upon harsh terms. This is the only object for which I would agree to borrow money to any extent. I would not borrow money in any large sum to keep up your army. In the proper administration of your government, you have very little use for an army. About all the service it performs in time of peace is to watch Indians, and I very much agree with my venerable friend from Texas [Mr. Houston], that if you let the Indians alone, they want very little watching. But your flag, according to the declaration of gentlemen all around the chamber, has been insulted, again and again, on the sea. We have heard the senator from Tennessee recapitulate the simple facts that war speeches have been made on both sides of the chamber, speeches calculated to stir up the blood of young America, speeches calculated to excite English spirit, if she be acting upon a system, speeches calculated to produce an issue, to bring the two governments face to face—that you must either have a fight or have a back out, on one side or the other. English courage never has receded from a conflict, nor has the courage of America. I hope that at the last hour we are not to shrink from the conflict, and do it on the miserable plea that, after all the boasting we have had here, we are unprepared for war. Do gentlemen calculate that their speeches are to be read in the British Parliament, by British statesmen, and no notice taken of them? Do gentlemen calculate that Great Britain is to take down her flag, and not to stand up to any national position she has assumed? If they make such calculation, then, let me say, history does not justify their making it. If they are quite assured that the recent transactions in the Gulf of Mexico are unauthorized, then their speeches were unworthy of senators. I supposed that those speeches were made because there was a settled conviction on the minds of senators that Great Britain did



authorize these outrages, that we were talking, not to the poor creature who commands the Styx or the Buzzard, but that we were talking to Lord Derby and his council, that we were talking to the queen upon the throne. If we were, if that was the view of the subject, then senators ought to consider that the words uttered here are not light and frivolous words, and will not be so considered and treated by the world, but that these bold words ought to be backed by bold and manly actions.

Mr. President, I know very well that, in case of a conflict with Great Britain, the great burden is to fall on that section of the country from which I come, and upon no portion of it more heavily than upon my own state. Mine is a cotton state; purely a cotton-producing state. We sell scarcely a penny's worth of anything else than that great staple, and Great Britain is our best customer; but I say before the Senate to-day, and before the world, that, sooner than allow my flag to be insulted, I would have my people carry every bale of their cotton to New Orleans and Mobile, to make barricades, and, if necessary, I would put the torch to it, and burn up every fibre of it, without one sixpence of insurance from any quarter. With me, sir, the defence of the flag is the first great duty of an American patriot, and I would defend it, cost what it may. But I should talk idly if I said I was for a war with Great Britain. I want no war with her. I want her to respect the rights of these states united; I want her to pay proper deference to the glorious banner of the stars and stripes. If she refused that, I would not stop an instant to count the cost in dollars and cents—nay, sir, not in blood and life. I endorse what my friend from Tennessee has said, that these violent speeches, unbacked by acts, amount to little. When they are carried across the Atlantic, and are read there, British statesmen cannot fail to see that this is mere bravado; that you will talk valiantly to the populace about war, but when it comes to preparation you do not make the preparation.

It is confessed, now, that you have not an available naval force to vindicate your flag in the Gulf of Mexico. Who does not know that that is true? How often has it been stated here, without contradiction, that the British guns in the West Indies and the Gulf of Mexico outnumber yours more than two to one, and that you have not an additional force to send there? Yet, in the face of these facts, gentlemen have talked of war, of blowing Great Britain out of the sea, capturing her vessels, and bringing them into port, holding them as hostages, and all that! If you mean to meet an issue with a government like Britain, you have a very different game before you; and it is high time you commenced preparing for the conflict. These war speeches have satisfied me that there is danger, imminent danger; that, if you vindicate the honor of your flag, you will have war. I do not say that you will have it absolutely, but that there is danger of it; and, in the face of that danger, I will provide for the contingency in advance of its coming. Let us have the twelve sloops. I repeat, again, I am sorry the committee did not propose twenty. Twenty would not be half enough. Better borrow the money now, when you can get it at three or four per cent., than stumble headlong into war, and borrow at twelve, fourteen, fifteen, or perhaps twenty, or even a higher percentage.

But even in a time of profound peace you need the vessels. If there was no menacing anywhere, I might say that, inasmuch as there is no

pressing necessity for it, I will not go for an increase of the navy; but in view of the present danger I am for the increase, cost what it may. I think it will have a wholesome effect on diplomacy. While I would not undertake to menace a power like Great Britain, because she is not a power to be menaced or bullied, yet I think if she saw that you were backing up your bold words by equally bold and valiant deeds, she would not be quite so likely to be so overbearing and haughty as a nation as we know her to be—as she would be—if you simply talk and do nothing. I am for backing up all we have said by equally bold deeds. I am not finding fault with gentlemen now for talking. It is all well enough. Up to this hour I have taken no part in it; but I choose to put my declaration on the record not only in favor of vindicating the flag on this question in words, but in favor of preparing to do it by deeds. These sloops, if you build them, will not encumber your navy. Your navy is not, it never has been, large enough. Your coast has been extended. If you had no further service for it, your coast has more than doubled within the last fifteen years; there is a greater amount of coastwise trade to guard on both sides of the continent. It requires a greater expenditure; and if there be grumbling among the people about the expenditure, the answer is easy: "You insisted upon the addition to the country; you knew, when you were getting all this coast, that it would need defence; if you are a sensible and thinking people, you must have seen it would involve an expenditure to protect it, and keep it, and maintain it." I am for increasing the navy from ten sloops up to twenty, and I would vote for forty.

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## FRANKING PRIVILEGE.

SPEECH IN THE SENATE OF THE UNITED STATES JUNE 14, 1858, ON THE  
ABOLITION OF THE FRANKING PRIVILEGE.

I SHALL vote against this report for several reasons. In the first place, I see nothing in the idea of objecting to general legislation on an appropriation bill. How often during this session, and every other session of Congress, has it been done by both Houses? This is an objection urged to a measure which is distasteful to gentlemen, just as the same argument has been urged a hundred times before; and it is only urged by those to whom the measure is distasteful. If it were pleasant to them they would swallow it in both Houses, of course without a word; but it is an argument lugged in by the ears and shaken in the face of the Senate, every time anything is proposed which chances to be a little distasteful to gentlemen. If we could get back to the original principle, and put nothing but appropriations on appropriation bills, I should be very willing to stand upon that principle now and through all time to come; but we have not done it, and we are not going to do it.

Then what is there in the argument about prolonging the session? Suppose the House of Representatives do bring the session abruptly to a close by the loss of this bill: the President has the power, and he will exercise it, to tell them to come back, take their seats, and discharge

the duty for which they are paid. The session can as well last to the first Monday of December, as come abruptly to a close when the clock points to the hour of six this evening; and it will not cost the government a sixpence to prolong it to that time. I protest against the argument, that gentlemen who are paid by the year to transact the public business must hasten abruptly to close the session of Congress, and that, upon the declaration that they cannot stay any longer, we are to give up important measures. Are public and private rights to be trampled under foot because gentlemen do not choose to stay here, and do what they are paid to do? Such an argument rather inclines me to stand upon the Senate amendments, let the bill fall, and let the President call gentlemen back, and teach them their duty by the strong arm of constitutional power.

Then it is said: "these are small points; we can give them up; it will not cost anything to give them up." A small point, sir, not to increase the rate of postage, when your Post Office Department is costing you more than two million dollars over its revenue!

Mr. TOOMBS. I will mention to my friend that there are \$3,500,000 appropriated in this very bill, out of the treasury, independent of what goes through the Navy Department.

Mr. BROWN. I was not very accurate about the figures. I knew it was a large sum. Gentlemen speak of this as a small thing; they say it amounts to little. You are going into the market to borrow money. You borrowed \$20,000,000 at the opening of the session, and now you are to borrow \$20,000,000 at the close. There is an executive message on the table, telling you that these loans can by no possibility keep you going until beyond the first of January next; and yet you refuse to increase the rates of postage, when your post office establishment is thrown on the treasury at an annual expense of \$3,500,000 above its revenue. I think it is rather a large point. I do not think \$3,500,000 are thus to be lightly thrown aside.

Now let me ask you, Mr. President, how is a large portion of the deficiency in the post office revenue created? It is on account of the franking privilege, to which gentlemen adhere with the tenacity of a dying man, and which it seems they will, under no circumstances, agree to surrender. They would sacrifice an important bill, compel the President to reconvene Congress, do anything, rather than give up this sacred privilege, as I suppose they regard it—a privilege which, to most members of Congress, is a burden. But, sir, I ask again, whether the franking privilege does not create a large portion of the deficiency in the post office revenues? I assert that it does, and I will tell you why. Within the last eighteen months, more than eighteen hundred tons of free matter have passed through the Washington City Post Office from members of Congress alone—enough to load a large-sized ship, enough to load two ordinary steamboats. This free matter has gone out; and where has it gone to? So long as it is upon your railroads and upon your four-horse stage coach lines, it gets along, I grant you, without much additional cost; but it gets to a point where it must necessarily be packed on horseback, and it accumulates there to the extent of five or six hundred pounds. It does not take a great many of your eight large volumes of Pacific Railroad surveys, Congressional Globes, and other heavy books, to amount to a large weight. What

happens then? The horse mail cannot carry them; there is a complaint to the Postmaster General that mail matter is piled up there and the service is insufficient. He sends out a printed circular to have the mail weighed. They always weigh it about the time these big documents get there. The report is made that three or four or five hundred pounds have accumulated, which the mail-carrier cannot lug away. It stays there for a month or two; the postmaster weighs it again and sends back another report; and, finally, the Postmaster General, or one of his subordinates, is satisfied that an increase of service is necessary; and on that little horse route, where a pony could take the whole of the paying matter, you put on four-horse coaches to carry your documents, at an increased cost of thousands of dollars where the service was before performed amply for hundreds. It is done in my state, done in every state of the Union; and you have to-day not less than five thousand miles of coach service which was established for nothing on God's earth but to pack your franked documents. They run backwards with a little amount of paid matter that any man could carry in his hat. That happens in every state in the Union; you sum up at the end of the year five or six million dollars for carrying the mails. Take your free matter out of that; reduce your coach service, by giving one month's extra pay provided by law to an inferior grade of service; increase your postage to five cents instead of three; and the Post Office Department, in two years, will support itself and probably have a surplus; and yet, in the face of these things, gentlemen say, "this is a small matter, not worth controversy about; it is vastly less than compelling Congress to sit here a day or two longer." I think it is worth a contest which should compel Congress to sit here until the first Monday of December next. It costs your treasury nothing to make you stay. Therefore it was that, on Saturday night, when my friend from Pennsylvania [Mr. Bigler] proposed to introduce a resolution fixing another hour of adjournment, I objected to it. Introduce a resolution to abrogate any time of adjournment, and I shall have no objection. The House this morning took a different course, and we have agreed to adjourn at six o'clock. I hope we shall do so, and I hope we shall do it without this bill having seen daylight. Let it die; and let the President exercise his constitutional prerogative of reconvening Congress; and when gentlemen are brought back, they will sit down in sober earnestness to the discharge of those great legislative duties imposed upon them by the Constitution, and which, in their compact with the people, they have agreed faithfully, and as efficiently as they could, to perform.

## SPEECH

DELIVERED AT HAZLEHURST, MISSISSIPPI, ON THE 11th OF SEPTEMBER,  
1858.

FELLOW CITIZENS: I am profoundly grateful for this manifestation of your kindness. On many occasions I have confessed before you the depths to which my heart had been penetrated by your partiality. But the presence of this multitude, and the cordiality of its greeting, so overwhelms me, that I can neither attempt to express my gratitude nor describe the emotions which swell my bosom. If I have been a faithful exponent of your principles in the past, I offer you that as the best guarantee that I will be so in the future. It has been my good fortune to have retained your confidence for a long series of years, and to you, I think, I may appeal with safety, if I ever resorted to the arts of the demagogue, or failed to speak out my sentiments when called on.

To-day, having no favors to ask, and no responsibility to shun, I am more than ever resolved to speak plainly. It would be a libel on my past life to disguise my real sentiments; and besides now, more than at any other time, there is need for every patriot wearing his heart upon his sleeve.

You will naturally expect of me, just returned as I am, from the theatre of the late stirring scenes in Congress, some account of what was said and done, and some intimation of my opinions as to the bearing which present events are to have on the future of our country, and especially on your future. I shall proceed calmly to fulfil that expectation.

When Congress met in December, it was apparent to every one that the slavery question was to be the great issue of the session. True, we had settled it—we had compromised it—we had fixed its finality—we had taken it out of Congress. But like an evil spirit it had come back upon us.

To say nothing of the compromises of 1850, and other kindred legislation before and since, Congress, in 1854, had passed the bill commonly called the Kansas act. In this act it was solemnly stipulated that Congress would, in future, abstain from all interference with domestic slavery in the states or territories; and it was as solemnly affirmed, that for ever thereafter the people were to be left perfectly free to regulate that institution for themselves, and in their own way. This Kansas act was amazingly popular in the South at the time of its passage, and why, I certainly could never tell. With me it was never a favorite measure, and if I had been "left perfectly free" to do as I pleased, my vote would, in all probability, have been cast against it. One feature it had which strongly recommended it to my favor. It proposed the repeal of the Missouri restriction. That measure I had always regarded as unconstitutional. If my speeches, in the congressional canvass of 1839, had been preserved, they would have shown that I so regarded it then. In 1848, soon after my return to Congress in that year, and on the first opportunity, I thus characterized this restriction:

"It was a '*fungus and excrescence, a political monstrosity.*' It was the first, greatest, and most fatal error in our legislation on the subject of slavery. It violated at once the rights of one-half the Union, and flagrantly outraged the Federal Constitution."

With these opinions long cherished, well settled, and firmly fixed in my own mind, I could not well vote against any bill which proposed a repeal of this odious measure; and yet, as my friends know, I was near voting against the Kansas bill. There was that in it which never met my approbation. There was that left out which ought to have been put in, if it was designed to work fairly and justly on the diversified interests of the whole country.

The feature which most commended it to the favor of other people only tended to make it the more obnoxious to me. I allude to what is commonly called the popular sovereignty feature. I have so often expressed my opinion of this doctrine of popular sovereignty, both in and out of Congress, that I shall not pause to do it here. I have always regarded it as a wicked cheat, or a mischievous humbug. If it only means that the people have the right to govern themselves in their own way, subordinate to the Constitution and written laws, then it is a cheat, for there is nothing new in that doctrine. The people have had that right ever since the Declaration of Independence. If it means that the people may govern themselves in their own way, in disregard of the Constitution, and in contempt of the written law, then it is a mischievous humbug. The people can have no such right. Believing at the time, that the enunciation of a new doctrine like this was fraught with mischief, I denounced it. I predicted that it would lead to open disregard of law, violation of the Constitution, and contempt of the legally constituted authorities of the country. You have seen an army sent to put down rebellion, run mad, in Utah; you have seen Kansas trample the federal authority under foot; you have seen the authority of the President defied, and the decision of the Supreme Court disregarded in almost every Northern State. And all for why? The people had been told that of this new doctrine, and in its name they acted. It was useless to tell them that popular sovereignty meant only that they might vote as they pleased, and through the proper channels, change their laws, and even abolish one constitution and substitute another in its stead, if they would go through the proper form—all that they could do before, and they knew it; therefore they rationally concluded that popular sovereignty meant something more. It never occurred to them that great men would teach, as new, a doctrine which was as old as the Declaration of Independence, and just as familiar to every school-boy as his A B C's. They, therefore, concluded that they had only to declare for or against any measure, and in any mode that suited them, and their will, so expressed, became the supreme law. Brigham Young, and his saintly followers, declared in favor of popular sovereignty—set up their own laws, and the acts of Congress and the Constitution vanished from Utah. Lloyd Garrison, Horace Greeley, and their followers, declared against the fugitive slave law and the Dred Scott decision, and they fell. How could they stand? The popular sovereigns decreed against them. Jim Lane and his robber gang, in Kansas, set all law, order, and decency, at defiance, and in the name of popular sovereignty murdered the people, pillaged their houses, and drove their defenceless families into the wilder-

ness, or without the limits of the territory. This is but a leaf from the history of this new doctrine, and it does not impress me favorably with its working. It inclines me to stand firmly where I stood at first, and declare now, as I declared then, that it is a wicked cheat, or a mischievous humbug.

It was in the pursuit of this idea of letting the people govern themselves in their own way, regardless of law, and the guarantees and the requirements of the Constitution, that the Topeka, Leavenworth, and other constitutions, were gotten up in Kansas, and thrust into Congress in antagonism to the Lecompton constitution. There was no pretence that every requirement of the law and the Constitution had not been complied with in the formation of the Lecompton Constitution. The law and the Constitution had been pursued to a punctilio. But it was said more people had participated in the formation of some other constitution than in that at Lecompton, and therefore "popular sovereignty" required us to reject the one that had the stamp of law and order upon it, and take the one offered by the multitude. For one I refused to do it. I reverence law and revere the Constitution, and I respect the will of the people when expressed in obedience to the one and the other. But I have no respect for the public will when it comes to me over laws prostrated and constitutions violated.

The point made against the Lecompton constitution was, that it had never been submitted to the people for their ratification or rejection. This complaint came from the enemies, not the friends of that constitution. Of all those who had part or lot in framing it, not one made complaint. They had the power and the right to support it, if they chose. They did not choose to do it, and with me their action was final. The enemies of the constitution insisted on its submission. They wanted another chance to kill it. I had early learned, from the horn-books of the law, that a child is not to be put to nurse with those who are interested in its death, and I therefore refused obedience to the demands of those who sought another opportunity to slaughter the Lecompton constitution.

It amazed me that the friends *par excellence* of popular sovereignty should be the first to insist on the submission of this constitution. It was in vain that we showed them the people who made the constitution did not ask its submission. They only became the more clamorous. The truth was, it was a pro-slavery constitution. If it had been an anti-slavery constitution, like the constitution of California, it would have been accepted, no odds what irregularities had marked its formation. It is true, when I made this point in the debate, Senators Douglas and Stuart both denied that they were governed by any such consideration. No denial came from Senators Seward, Wilson, Wade, or any of their peculiar friends. The denial of senators upon their honor precluded then, as it precludes now, any question as to the motives which governed them. But I did not fail to note that both Douglas and Stuart voted for California—a free state—though in no single particular was there the slightest pretence that her constitution had been regularly formed.

And now, fellow-citizens, having mentioned the name of Douglas, allow me to digress so far as to say my sympathies are not with those who indulge in wholesale denunciation of him. He is more honest, more consistent, more the friend to the Constitution and the rights of the states, and a better Democrat than nine-tenths of those in the free

states who abuse him. He is a giant in intellect, a giant in will, a giant in eloquence, a giant in everything that makes up the characteristics of a great man, and I hope he may thrash Abolition Lincoln out of his boots.

I need not say that I differed with Douglas on the Kansas-Lecompton question. We met in debate—we discussed the question, I hope, like senators—we differed in the end, as we had differed in the beginning; but we parted as we had met, friends.

If I could get a man of my own faith, I would gladly take him. But God forbid that I should discard a great man like Douglas, who differs with me on one point, and take a small man like Lincoln, who agrees with me in nothing.

But to the question. After a long and tedious debate in both houses of Congress, it became apparent that it was impossible to admit Kansas as a state under the Lecompton constitution. We had, therefore, to abandon the contest, and give the enemy the only victory they had sought—the exclusion of pro-slavery Kansas—or we had to resort to some other expedient. Mr. Montgomery, a representative from Pennsylvania, and Mr. Crittenden, the venerable and distinguished senator from Kentucky, each brought forward a project. The time may come when their propositions, and especially Mr. Crittenden's, may have to be discussed before the people. For the present, it is sufficient to say they were both rejected, no friend of the Lecompton (pro-slavery) constitution, in either House of Congress, giving to either of them the slightest countenance or support, so far as I know or believe.

In this state of affairs the two Houses of Congress, through their respective committees, met for consultation. The result was the production of the "English conference bill," and of that I come now to speak. It figured conspicuously in the last act of the drama, and deserves a passing notice.

By this bill the friends of the Lecompton constitution proposed to admit Kansas as a state, and then leave the people of the territory free to decide for themselves whether they would accept the act of admission or not. There was some propriety in this, growing out of the fact that Congress had already determined to reject certain conditions proposed by Kansas in regard to the public lands and other important interests.

I, for one, never believed that Congress had the right to take a territory by the ears and drag her into the Union *nolens volens*. And while I would not listen to a proposition to remand the constitution tendered by the people of a territory asking admission, and require them to vote on it whether they desired to do so or not, I thought it proper in the case of Kansas to allow her people to decide for themselves whether they were in the Union as a state after we had rejected a portion of their proposition and materially altered other parts of it. If Kansas refused to accept the act of admission, and thus determined for herself that she was not in the Union, then it was stipulated in the "English conference bill" that she remain out until she had the requisite federal population to entitle her to one representative in Congress, that being, according to the existing ratio, 93,420. Against this bill the whole power that had defeated the original Senate bill arrayed itself, with the exception of some six or eight members of the



House of Representatives, and these gave the friends of the measure barely votes enough to carry it. For the bill every southern senator and representative voted, except Gen. Quitman, and Mr. Bonham of South Carolina. That Gen. Quitman voted against it was never a matter of serious regret to me, and certainly I never dreamed of reproaching him for it. If he could speak from the grave to-day, he would bear me willing testimony that I said to him more than once, if he was censured for his vote, I would stand by him and defend him. It was one of those points on which gentlemen entertaining similar views on most questions might well differ. Gen. Quitman differed with the great body of his southern friends, and following the dictates of his conscience, he voted against the bill. In that act, standing alone, or with but a single ally, against all his southern friends, he showed a moral heroism worthy of a Spartan. It was a heroism before which the sublime history written by him on the walls of Mexico might pale and hide its head. To oppose the enemies of one's country on the field of battle, requires courage, but to oppose one's friends united, on the floors of Congress, and on a vital question, requires heroism such as few men possess. Quitman was equal to the task.

It is not certain that Gen. Quitman was wrong. Kansas has refused the terms of admission, and already we hear it proposed to disregard the stipulation in respect to population, and admit her as a free state. It was this stipulation that commanded my vote; I know it commanded other votes. Many of us thought it best, all things considered, that Kansas should remain out of the Union for some time to come. And though we went for her admission under the Lecompton constitution—if that failed, we felt quite willing to see her excluded until she had population enough to give her at least one member of Congress. We entered into that bargain. We enacted our agreement into a law; and, for one, I shall insist on carrying it out in good faith. When Kansas presents herself, with a census fairly taken, showing that she has the representative population required, I shall vote to admit her, and I shall not do it before.

I observe that the New York Herald, the Richmond Enquirer, and other kindred sheets, are urging the abandonment of the English bill, and the speedy admission of Kansas, as the only means of saving the Democratic party in 1860. If the Democratic party can only be saved by means like this, then the sooner it sinks the better. And I have this farther to say, that whenever the Democratic party consents to be led by such men as edit the New York Herald and Richmond Enquirer, it is time for the old guard to strike their colors.

We have had quite enough of sacrificing principle to expediency. I want no more of it, and I will have no more. For the National Democratic party I entertain profound respect. It is the last bulwark of the Union; when it falls the Union will fall with it. But if it requires another compromise, and another sacrifice of southern rights, to save it, it may go.

The original Kansas bill was never a favorite measure of mine, and the last one was still less to my notion. But I had seen the South give up California and content herself with but a feeble foothold in Utah and in New Mexico. I have seen men stricken down for insisting on the extreme measure of justice, and I did not feel quite

certain that I should be sustained if I demanded more than these bills contained. Let it not be supposed that I am in the habit of looking home for instructions as to how I shall cast my votes. But I have served long enough in Congress to know how utterly powerless a representative becomes, and especially on those sectional issues, the instant he is not sustained by his people. For this reason, I confess I have felt very great anxiety to have your approval in what I did. I tell you now what I am going to do for the future, and I hope you will give me your countenance and support. In all the opposition I may wage against the premature admission of Kansas, I know I shall be sustaining the well-settled views of the President. Mr. Buchanan is sound on this point.

The national administration is as sound on the slavery question, and as true to the South, as any national administration will ever be. While Mr. Buchanan desires to do justice to us, and protect us in our rights, his judgment is swayed by that power at the North which is resolutely bent on taking possession of the government. It is the force of public opinion and not the want of good will on the part of leading statesmen at the North, that constantly drives the government into acts of hostility to the South. Selfish politicians at first tampered with a mawkish sentimentality, and now, instead of controlling it, they are controlled by it. Mr. Buchanan is sounder at this time than many southern statesmen, mainly because he is old, has nothing more to ask, and nothing to do but his duty. If northern and southern demagogues would let him alone, he would generally do right. But they scare him with hobgoblin stories about breaking up the Democratic party in 1860 and the election of an Abolitionist, and the final downfall of the Union, and all that, and then right away he does something wrong.

I never doubted that Mr. Buchanan was right on the Nicaragua question on the start, and I have just as little doubt that he is all wrong now. That Walker had the sympathy of the President when he set out for Central America, I think is certain; that he ought to have retained it is just as certain. I am not saying that Walker is the man of destiny his friends have claimed him to be. I think he is not. I do not say he is the most proper man to conduct an expedition such as he set on foot. It is very likely he is not. But he was doing us a good service, and he ought to have been let alone. Under his lead, before this, Nicaragua would have been a thriving and prosperous state out of the Union. But in an evil hour the President listened to evil councils, and Walker's expedition was broken up, and himself brought back a prisoner of state. I expressed myself pretty freely about this transaction at the time, and I shall not now repeat what I said then; but there is a branch of the subject to which I want to call your special attention.

About the time Walker was fitting out his expedition, and while he felt very certain, if he did not violate the laws, he would not be molested, the Secretary of State entered into a treaty with a Mr. Irissari, the stipulations of which I assume, for I do not pretend in this connection to have seen the treaty, were inconsistent with any continued sympathy or countenance to Walker on the part of the government.

This brings me to consider, first, what interest we had in the Nicaragua question; and next, which plan, the Walker plan or the Cass-Irissari plan, is most likely to subserve our purposes. First, I assume that we

are directly interested, and to a deep extent, in planting a slaveholding state in Nicaragua. We are so, because slavery must go South, if it goes at all. If Walker had been allowed to succeed, he would have planted such a state, and the Southern States would have populated it. It is against our interest to have an anti-slave state planted in our front. We all know that such a state must, sooner or later, come into the Union, and help to swell that hostile power at the North which has already given us so much trouble. And that being in our front, it will stand ready at all times to arrest our progress. The plan for colonizing Central America, as foreshadowed in the Cass-Irissari treaty, is through the agency of the American Transit Company. That company has its headquarters in Wall street and State street. If Central America is ever colonized through its agency, it will, at the same time, be Abolitionized. Of this I have no doubt. I was for Walker, because I thought he was giving us a slaveholding state. I was against Cass and Irissari, because they were giving us an Abolition state.

It may seem strange to you that I thus talk of taking possession of Central America, or any part of it, seeing, as you suppose you do, that it belongs to some one else. Yes, it belonged to some one else, just as this country once belonged to the Choctaws. When we wanted this country we came and took it. If we want Central America, or any part of it, I would go and take that. If the inhabitants were willing to live under a good government, such as we would give them, I would have them protected; and if they were not, they might go somewhere else. I suppose sentiments like these will startle all foggydom, and I shall be set down as a regular fire-eating filibuster. Very well; I have heard people whine over the white man's cruelty to Indians before, but American statesmen did not heed it, and the result is that stately mansions have taken the place of Indian wigwams, and railroads have obliterated the Indian war-path. It is said, I know, that these Central American semibarbarians, conglomerate of Indian, negro, and Celt, have been recognised by some of the powers of Europe as independent states. Well, suppose they have. Would not the same powers have recognised the Choctaws, Chickasaws, and every other Indian tribe, as independent, if our government had not interposed to prevent it? We have treaties ourselves with the Central American States. So we have with the Indian tribes. But these treaties, no odds how worded, have never stood in the way of our taking their land when the expansion of our people and the spread of civilization required us to have it. No, no; this is all fudge and fustian, signifying nothing. If we want Central America, the cheapest, easiest, and quickest way to get it is to go and take it, and if France and England interfere, read the Monroe doctrine to them.

If any one desires to know why I want a foothold in Central America, I avow frankly it is because I want to plant slavery there; I think slavery is a good thing *per se*; I believe it to be a great moral, social, and political blessing—a blessing to the master and a blessing to the slave, and I believe, moreover, that it is of Divine origin. I said so in the House of Representatives at Washington, on the 30th of January, 1850, and I say so now—I said so then, because I thought so then—I say so now, because I think so yet.

That slavery is a blessing to the master, is shown by simply contrasting a southern gentleman with a northern abolitionist. One is courage-

ous, high-bred, and manly. The other is cowardly, low flung, and sneaking. The slave is blessed with a sound health, a sleek skin, and Christian instruction—the free African is dwarfed by disease, scrofulous from hunger, and is a barbarian and a cannibal. That it is of divine origin is proven by the Bible; in no line of that blessed book is slavery reprobated; in many places it is directly sanctioned. The angel of the Lord, we are told, captured Hagar and took her home to her mistress. Onesimus was a fugitive when captured by Paul, and though slavery existed in the time of the Saviour, neither he nor the disciples preached against it. What God has ordained, cannot be wrong. What Omnipotence sustains, fanaticism cannot throw down. But to the point.

I want a footing in Central America for other reasons, or rather for a continuation of the reasons already given. I want Cuba, and I know that sooner or later we must have it. If the worm-eaten throne of Spain is willing to give it up for a fair equivalent, well—if not, we must take it. I want Tamaulipas, Potosi, and one or two other Mexican States; and I want them all for the same reason—for the planting or spreading of slavery. And a footing in Central America will powerfully aid us in acquiring those other states. It will render them less valuable to the other powers of the earth, and thereby diminish competition with us. Yes, I want these countries for the spread of slavery. I would spread the blessings of slavery, like the religion of our Divine Master, to the uttermost ends of the earth, and rebellious and wicked as the Yankees have been, I would even extend it to them. I would not force it upon them, as I would not force religion upon them, but I would preach it to them, as I would preach the gospel. They are a stiff-necked and rebellious race, and I have little hope that they will receive the blessing, and I would therefore prepare for its spread to other more favored lands.

I may be asked if I am in favor of reopening the African slave-trade. Not yet. I think it not practicable; and as yet it would not be wise, if it were practicable. We can never reopen that trade while the Union lasts, unless we can multiply the number of slaveholding states. This we can never do, unless we acquire more territory. Whether we can obtain the territory while the Union lasts, I do not know; I fear we cannot. But I would make an honest effort, and if we failed, I would go out of the Union and try it there. I speak plainly. I would make a refusal to acquire territory because it was to be slave territory, a cause for disunion, just as I would make the refusal to admit a new state because it was to be a slave state, a cause for disunion.

I have said it would not be wise, if it were practicable, to reopen the slave-trade now. The South wants a large white population, and this she wants worse than she does cheap slave labor. I doubt the economy of cheap labor in the cotton states, under the present organization of society. Its first effect would be to check white immigration, and to drive away a valuable and reliable part of our present population. With a greater expansion of territory and wider fields for the great staples, sugar and tobacco, as well as cotton, to say nothing of fruits and vegetables, we should need an importation of black laborers; and in that case I should be willing to take them from Africa. At present their introduction here would reduce our white population, and thus diminish our

chances for acquiring Central America, Cuba, and the northern states of Mexico.

If we mean to increase our white population, and thereby our weight in the Union, or if we mean to retain our present population and thereby retain our present weight, the way to do it is to keep up the wages of labor. This cannot be done by the introduction of cheap laborers.

It is clear to my mind that if we have more land than laborers, then we ought not to acquire any more territory, at least for the present, and therefore the acquisition of Cuba, the colonization of Central America, and all kindred questions, must be postponed. If, on the other hand, labor is trenching, is close upon the lands—I mean lands worth cultivating—then we ought to get more land before we get more labor, since labor without land will be a burthen rather than a profit.

I do not know that I understand the purpose of those who are urging this question of reopening the slave-trade. If it be to agitate the public mind and still further prepare it for disunion, then I can only say to those engaged in it, they are defeating their own object. The South was never so near united as now. The introduction of this question will sow the seeds of discord, and create wide-spread divisions where there is now almost perfect harmony.

Of the constitutional power of Congress to repeal the laws prohibiting the slave-trade, there can be no question. The language of the Constitution is permissive, not mandatory. Congress shall not prohibit the introduction of African slaves prior to 1808, says the Constitution, thereby implying that it may, not that it shall, do it after that time. In the exercise of the power, Congress went out of its way to denounce the traffic as piracy. This was a gratuitous affront to the South. It implied that the trade was inherently wrong, and involved the highest degree of moral turpitude. No such thing is true. If it be piracy to traffic in slaves between the coast of Africa and the United States, it will be difficult to show that it is anything less to carry on the trade between Virginia and Mississippi. It is piracy simply because the law so denounces it; there is in it no inherent moral guilt.

This denunciation of the slave-trade as piracy has involved us in a long series of international disputes with Great Britain, which, thanks to the wisdom and moderation of Mr. Buchanan's administration, has just now been settled. Great Britain has not relinquished the right of search, as some people have supposed. She had no such right to relinquish. But she has done at last what she ought to have done at first; she has said that, inasmuch as the laws—her own as well as ours—denounce the African slave-trade as piracy, she will search suspected vessels; if they turn out to be slavers, it is well—nobody will complain; if otherwise, she will make instant and ample reparation. The objection to this, if objection there be, will be found in the law, and not in the course which Great Britain means in the future to pursue. Pirates are the enemies of the whole human family, and all mankind are authorized, without special warrant, to destroy them. If, however, in pursuing pirates, innocent and unoffending parties are molested, the offenders must pay damages. Any one of you may pursue a thief or a murderer, and arrest him without a warrant. If you get the right man, it is well: the law will not only sustain but applaud you. But if you get the wrong

man, it is bad: the law not only withdraws its countenance, but mulcts you in damages.

If the slave-trade is to be regarded as piracy, Great Britain's present position is right. If it is not, then the law which so denounces it ought to be repealed.

I should be glad, if time permitted, to discuss the question of slavery in its local aspects, and show how it elevates the white man. How, instead of degrading the non-slaveholder in the social scale, as has been asserted, it elevates him; and how, instead of reducing the wages of his labor, it increases them. I should be glad to show how it is that in all non-slaveholding communities capital competes directly with labor, and why it is that exactly the reverse is true in all communities where slavery exists. But all this I must reserve for some other occasion.

I have been asked to state my views as to the future of the Union, and I will do so with the utmost freedom and frankness. In twenty years I have not changed my opinion as to the great fact, that you must give up the Union, or give up slavery. That they can and ought to exist together in harmony, and be, as they have been, mutually beneficial, is certainly true; but that they will not, is, in my judgment, just as true. The sentiment of hostility to the South and its institutions, is widening and deepening at the North every day. Those who tell you otherwise are themselves deceived, or they wilfully deceive you. Twenty years ago, this sentiment was confined to a few fanatics; now it pervades all classes, ages, and sexes of society. It is madness to suppose that this tide is ever to roll back. To-day, Seward, the great arch spirit of Abolitionism, marshals his hosts. In twenty years he has not changed his plan. He means to bring the Union, with all its power and patronage, its prestige and its glory, into direct conflict with slavery. The day of battle cannot much longer be delayed. When it comes, when the power of the Union is turned against slavery, when its arm is raised to strike down the South, I know not where other men will stand, but for myself, I will stand where I have always stood, on the side of slavery and the South.

I was raised in awe, in almost superstitious reverence of the Union. But if the Union is to be converted into a masked battery for assailing my property and my domestic peace, I will destroy it if I can; and if this cannot be done by a direct assault, I would resort to sapping and mining. This is plain talk. I mean that you should understand me, and that others shall know where I stand. Now, as in 1850, I do not fear the consequences of disunion. I do not court it, but I do not dread it. On the 30th of January of that year I said:—

"The South afraid to dissolve the Union—why should we fear? Are we not able to take care of ourselves? Shall eight millions of people, with more than one hundred millions of dollars in annual products, fear to take their position among the nations of the earth? Neither Old England or New England will make war on us—our cotton bags are our bonds of peace."

Nearly nine years have passed away, and the convictions of 1850 have been strengthened by each year's experience.

It is futile, if, indeed, it is not puerile, to attempt a compromise of the slavery question. The difference between the North and South is radical and irreconcilable. Discussion has only served to exasperate the feelings of the two sections, and every attempt to adjust their differ-

ences by congressional compromise, has but widened the breach between them. In a much-abused speech, pronounced by me at Elwood Springs, near Port Gibson, on the 2d of November, 1850, I said:—

"We are told that our difficulties are at an end; that, unjust as we all know the late action of Congress to have been, it is better to submit, and especially is it better since this is to be the end of the slavery agitation. If this were the end, fellow-citizens, I might debate the question as to whether it would not be the better policy. Such is my love of peace, such my almost superstitious reverence for the Union, that I might be willing to submit if this was to be the end of our troubles. But I know it is not to be the end. \* \* \* \* \*

"Look to the success of the Free-Soilers in the late elections. Listen to the notes of preparation everywhere in the Northern States, and tell me if men do not willfully deceive you when they say that the slavery agitation is over. I tell you, fellow-citizens, it is not over."

I then predicted that the compromise would be observed just so long as it suited the purposes of the North to observe it, and no longer. Whether that prediction has been verified, I leave to the decision of all men of all parties.

What is there in the future to encourage the South? The enemy is growing stronger every day, that is true. But thanks to the good sense of our people, we are becoming more united. The day is not far distant when we will stand in the breach as one man, determined to do or die in defence of our common heritage. Never within my recollection has the South stood so closely united; and seeing this, I feel encouraged. Still, I would now, as in 1850, give Cromwell's advice to his army: "Pray to the Lord, but keep your powder dry."

I have undiminished confidence in the soundness of Democratic theories; and I believe now, as I have always believed, that the Democratic party is the only national party on which the country can rely. Indeed, since the disruption of the old Whig party, it is the only one which has a decent claim to nationality. But I will not so far stultify myself as to say that all who claim to be National Democrats are worthy of confidence. I utterly repudiate the men of seven principles—the five loaves and two fishes men—the men who expect a great deal of bread for very little Democracy. I will fellowship with no such Swiss guard. They will be at Charleston, and if they carry the day, it will be time for honest men to retire.

It is expected of us, I suppose, that we are to go into the convention at Charleston for a presidential candidate for 1860. I am not over-hopeful of good results following from that convention, and yet I am willing to go in and try what can be done. That we should get a sound platform and sound candidates, I do not question. That we shall elect our candidate is probable—that we shall sustain him after he is elected, is not probable. National Democracy has not the cohesive power it had in the days of Jackson, else General Pierce would not have been sacrificed at the North for doing his duty, and Mr. Buchanan would not now be abandoned for standing square on the platform of his party. Still, so long as they give us sound platforms and sound candidates upon them, I do not see what better we can do than meet them in national convention.

A few partial friends have connected my humble name with the presidency; I thank them for their kindness, but I am not deceived as to my true position. No man entertaining the sentiments I have expressed to-

day, can be elected President of the United States. I never doubted that a camel might go through the eye of a needle, but I am wholly incredulous as to any man who entertains sound views on the subject of Southern rights, ever being crowded into the presidential chair. He may entertain sound views, and keep them to himself, or he may so disguise them in general verbiage, as to make them palatable. But, if his views are sound, and he expresses them with the boldness of a freeman, and the independence of a man, he seals his prospects for ever.

No, no; I have no silly aspirations for the presidency, and, therefore, have no occasion to suspect that my judgment has been warped by ambition—I am ambitious, but my ambition does not lead me towards the presidency. That is the road to apostacy; I would rather be the independent senator that I am, and speak for Mississippi, than be president, and be subject to the call of every demagogue, and compelled to speak for a heterogeneous mass, with as many opinions as the rainbow has hues. Whenever the South can no longer rely on the National Democracy, and feels that the time has come for her to go it alone, I will stand for her, if she can find no son more worthy of her confidence. But I will never consent to compromise my principles, or flatter Free-Soilers for their votes. When it comes to that, I stand out.

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## PACIFIC RAILROAD.

SPEECH IN THE SENATE OF THE UNITED STATES, JANUARY 20, 1859, ON THE  
PACIFIC RAILROAD.

BEFORE the vote is taken, I have a word or two to say, but I have no intention of making a speech. I understand, from the course which the debate has taken, that the constitutionality of this measure is made to depend on its necessity for the purposes of military defence. I yield very much to that argument; but I have resting on my own mind a very clear and distinct conviction that when you undertake to justify an appropriation from the national treasury, on the ground of necessity, that necessity must be direct and absolute, or it must be so probable that in the mind of a reasonable man, it is likely to occur. A remote and contingent necessity does not, and in my judgment cannot, justify the exercise of a doubtful constitutional power.

And, sir, in addition to this suggestion, I have to say that where appropriations are made on the ground of necessity, they must not exceed the occasion which requires the exercise of the power. If there be a direct and immediate necessity for building this road as a means of national defence, I agree that Congress can make the appropriation; but I believe no one has pretended that any direct or immediate necessity does exist. Then is there such a contingent necessity as, in the judgment of the Senate, is so likely to occur, that you are called upon to make the appropriation? I think all will admit that if there be a contingent necessity at all, it is very remote and very uncertain. It may occur next year, or ten years hence, or it may never occur. But, admitting that there may be a remote contingency—a remote probability



that the road will be necessary—does the amount called for to construct the work bear any reasonable proportion to that remote and uncertain contingency? I have said heretofore, and now repeat, that if every necessity which gentlemen may imagine has arisen or can arise, justifies the exercise of this power, I do not see where it is to stop; I do not see but that one may suppose there is a necessity for building a railroad to any point that you may name, for military defence, and therefore you have, according to the argument, the power to do it.

In this case I see no direct or immediate necessity; I see no remote necessity which justifies me in giving a vote in favor of this proposition; and, if I did, I should still say that the amount of money required to construct the road is of too great magnitude to justify me in giving it to meet the necessities of the case.

My friend from Missouri [Mr. Green], the other day, wanted to know of me where I got the power to construct a fortification. Well, sir, I will take the fortification in Virginia which he mentioned—Fortress Monroe. It is necessary for the defence of the town of Norfolk which lies above it. But suppose the town of Norfolk was worth \$10,000,000, and it would require \$100,000,000 to construct the fortification: then I would rather give up the town than construct the fortification; because the expenditure would so far exceed the necessity of the case as not to justify me, under the Constitution, in voting for it. That is, if I put the case as a mere matter of dollars and cents. I agree to the proposition that, wherever an appropriation is necessary, absolutely necessary to the national defence, you must have the power to make it; but I see no such absolute necessity in this case. I go further, and admit that, if the necessity is so probable that by applying a just and fair discrimination to the case, it appears to be a necessity likely to arise, then you may make the appropriation, provided the amount of money asked for does not greatly exceed the necessity of the case. But I cannot agree that every supposed, ideal, or imaginary necessity, justifies appropriations from the national treasury.

And now, Mr. President, upon another point; that is, the point of difference between the powers of the government over the territories and the states. I have stated heretofore, and now reiterate, I hope more distinctly than I have expressed it before, because I want to be understood on the point, that if it be admitted that Congress has the power to make an appropriation to construct a railroad in a territory, I know of no reason why Congress cannot make appropriations to construct railroads in the states, except this, that by going into the states you violate the sovereignty of the states. I hold that a state is the guardian of its own sovereignty; and if the state, by memorial, expressed through a convention of its people, invites the federal government to make a road, I do not see but that the whole difficulty is avoided. You do not go into the state according to the argument, simply because, in doing so, you violate its sovereignty. If the state waives the right, it seems to me the argument is avoided. I strike the question lower down. I deny the right of the federal government to exercise this sort of authority over the treasury except upon the grounds that I have already stated—that is, a necessity immediate or so proximate that a prudent man would prepare to meet it. I deny your right as much to construct an unnecessary road in a territory, as I deny it to construct an unnecessary road in the

states. And I assert that the necessity must be immediate and pressing, and not remote and contingent; and that the appropriation must bear some proper relation to the necessity of the case.

I content myself with asserting that if you have the power to make appropriations for the construction of a railroad in a territory, you have the same power to make appropriations to construct railroads in a state, when you have the consent of the state expressed through its sovereignty. I yielded the point the other day, as a debatable one at least, that the legislature and governor cannot speak for the sovereignty of a state; but if the state, in convention, shall make it a part of her organic law, that a railroad may be constructed within her limits, then, for the life of me, I cannot see how the sovereignty of the state is outraged by the federal government doing that which the sovereign invites her to do. I do not see that the rights of my state are violated at all by your doing what she, speaking through a convention of her people, invites you to do.

It has been suggested, in the course of the argument, that the consent of the state could neither enlarge nor diminish the powers of the federal government. That is simply a truism. Indeed it cannot, in any proper sense. And yet, it is true, you may do that within the limits of a state, with the consent of the state, which you cannot do without it.

It has been said, in the course of the argument, that the federal government must have the assent of the state before you can establish arsenals, dock-yards, navy-yards, &c., within the limits of the state. That is true—and it is just as true that you cannot do these things without the consent of the state. I dare say that if railroads had been known when the Constitution was established, they would have been included in the same catalogue. Railroads belong to the same class as navy-yards, dock-yards, arsenals, &c.; and if they had been known at the day when the Constitution was framed, I dare say they would have been enumerated. I put railroads in the same category with dock-yards, arsenals, &c. You can establish a navy-yard within a state, by the consent of the state; so you may establish an arsenal with the consent of the state; and so if you have the power to make the appropriation at all for a railroad; if you have the power over the treasury which authorizes you to make the appropriation, I hold that you can make it as well in a state, with the consent of the state, as in a territory. But I say again, I strike the question lower down, and deny the power to use the national treasury for this purpose, except in such cases as I have named; that is, in cases of direct or immediate necessity, not in cases of remote and contingent necessity; and then your appropriation must be confined to the necessity of the case; and if it exceeds it, I hold it is as much a violation of the Constitution to make the appropriation as to usurp a clear and distinct power.

It may be necessary to have a navy; but will anybody pretend that because you must necessarily have a navy, you can therefore build a thousand ships? Would not that be a violation of the Constitution—as clear a trespass on the power given you as would be the usurpation of a distinct right? You have the right to have an army; but suppose you should propose to band the whole population into an army: would not that be a violation of the Constitution, as much as to usurp any given power? I hold that even your granted powers are to be exercised with due and proper discretion, and with proper regard to the necessity of the case in hand.

This is all, Mr. President, that I have to say on those two points. My friend from Georgia [Mr. Iverson] said, a little while ago, that he reiterated and reaffirmed all that he had said the other day upon a question rather remote to this, but which some how or other came to be lugged into the debate. I shall not avail myself of my privilege on this occasion to discuss the question thus incidentally drawn into the discussion; and yet I do for some special reasons, perhaps special to myself, feel some anxiety at no distant day to express my views on the point thus incidentally introduced. I content myself at present with saying that having listened to the speech of the senator from Georgia, I endorse it cordially, warmly, and enthusiastically. He spoke like a true Southron as he is, upon all that related to the powers of the government over the territories. While I do not choose to embarrass this debate by giving any views of my own, I feel justified in saying this much in justice to my friend and to myself. On some other bill, and when the point shall be more germane, I shall express my opinions as to the rights, powers, and duties of the federal government in regard to the territories.

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## GRANT OF LAND TO THE SEVERAL STATES FOR AGRICULTURAL COLLEGES.

SPEECH IN THE SENATE OF THE UNITED STATES, FEBRUARY 7, 1859, ON  
HOUSE BILL MAKING GRANTS OF LANDS TO THE STATES FOR  
AGRICULTURAL COLLEGES.

MR. PRESIDENT: I do not intend to prolong this debate, for I am exceedingly anxious to proceed to the consideration of another question. My vote will not be recorded in favor of this bill; because, in my opinion, the judgment of the people whom I have the honor to represent is opposed to it. I feel none of that earnest opposition, however, to the bill which has been expressed by other gentlemen coming from the same section from which I came. I have seen in it none of those enormities which other gentlemen have seen, and have attempted to point out. I have not perceived that the rights of the states are to be violated by the passage of the bill. I do not understand that the rights of the states are violated by giving to each, to be enjoyed in severalty, a portion of that which belongs to all of them in the aggregate, or setting apart to each, to be enjoyed in severalty, a portion of that which belongs to all in the aggregate.

I have not seen, in other regards, that there will be in the passage of the bill that palpable violation of the Constitution which my friend from Alabama attempted to point out this morning. The bill, as I understand it, does not assume, upon the part of the federal government, the right to go into the states and take cognisance of the subject of agriculture. It no more does it, than did Congress, in passing the several acts enumerated by the senator from Tennessee, assume jurisdiction over the questions named in those acts. When five hundred thousand acres of land were given to my state for the purposes of internal improvement, the federal government did not assert its right to go into that state and

make internal improvements. When a much larger quantity was given for the purposes of swamp drainage, Congress did not assert its power to drain swamps. When quantities of land have been given to the states for other purposes, Congress has not asserted its jurisdiction, in my opinion, over these subjects.

Congress, as I understand the case, has said this: "We have no power to make internal improvements in the states; but you have; we have the power to dispose of the public lands, to give them away; we think internal improvements and the building of railroads a good object to be accomplished within your limits; we cannot do it; but we will give you so much land if you will do it." So in reference to the passage of the swamp land bills. Congress admitting that it had no right to go into a state and drain the swamps—said, in effect, to the states: "You have the right to drain swamps; we think it ought to be done; we have the power to give the land; we give it for that object, if you will thus apply it." Congress now says, or proposes to say, in reference to this matter: "We have no right to erect agricultural colleges within your limits; you have; we think agricultural colleges ought to be erected; if you will do it then we will give so much land to aid in the object."

That brings us back to the question, whether Congress has power to give the land for any purpose? I maintain that it has; that the power to dispose of the land necessarily carries with it the right to give it, or else the English language is meaningless. The only limitation, in my judgment, upon the power to give, is, that you shall not give it for a purpose prohibited by the Constitution. Certain salaries are fixed by law, and they can neither be increased nor diminished during the incumbency of the officer. You cannot give the public land to that officer, as an officer; because, in doing that, you would violate one of the prohibitions of the Constitution.

But I have seen no justification for any of these land grants for railroad purposes, for general purposes of internal improvements, for school purposes, or anything else, unless it be found in that clause of the Constitution which gives Congress the power to dispose of the public lands; "dispose of," meaning to give, to sell, to lease, to rent. Then, when they give it for a particular object, they do not take cognisance of the object. The state retains its authority over the question, and is simply aided by Congress in doing that which it has the right to do.

To illustrate, sir; I should have no right to erect a school-house on your premises; but I have the right to dispose of my own money. If I think a school-house ought to be erected there, I say to you, the proprietor: "Erect a school-house, and I will contribute \$500 to the object." I do not take any jurisdiction; I exercise no authority over your premises. You can either accept my proposition or not. I simply propose to come in in aid of an object which I believe is right. I have no right to go upon any lot in the city of Washington and erect a church, because the fee-simple over the soil is not in me; but, certainly, I have the right, if somebody else proposes to erect the church, to give my own money, or to give that which I have the right to give, towards the object. So I say of this question. While you have no right to go within the limits of the states, agricultural colleges, or colleges of any other kind, you have the right to say to the states: "This power is with you; you have the sovereignty; and if you, the sovereign, think

proper to erect a college, we will do what we can by contributing out of that from which we have the right to contribute.

Thus viewing the question, without attempting to elaborate it, I shall vote, as I said before, if I vote at all, against this bill; but I do it—understand me—in deference distinctly to what I understand to be the judgment of my own state. The state does not want the advantages which this bill holds out to her. I am here to defend her interest, and to represent her views; but I cannot record a vote, contrary to my own sense of what ought to be done, without explaining the reasons why I do so.

## SLAVERY IN THE TERRITORIES.

SPEECH IN THE SENATE, FEB. 23, 1859, ON THE QUESTION OF SLAVERY IN THE TERRITORIES.

MR. PRESIDENT: I need hardly say that I shall record my vote against this amendment. Ever since I had a matured opinion on the subject of introducing new states into the Union, I have been clear in my own judgment that no state ought to be admitted without the requisite population to entitle her to at least one representative. I think such is the clear meaning of the Constitution. The Constitution requires you to apportion representation among the states according to population. To enable you to do that, it authorizes you to take a census, an enumeration of the population, clearly indicating that the representation among the states is to be equal according to their respective population. I know of no rule which would entitle a young state to a representative upon this floor with less than the ratio which must not hold equally good in reference to an old state. Nay, sir, the reason why you should demand it of a new state is stronger than in the case of an old state, because a young state coming in is necessarily entitled to two senators. She becomes the equal on this floor of New York, Virginia, or any other state, on the instant of her introduction. For these reasons, and others which I shall not weary the Senate with giving, I have always believed, and still believe, that a state coming into the Union ought to have the requisite population to entitle her to one representative, according to the then existing ratio. Now, I think she ought to have ninety-three thousand four hundred and twenty, that being the ratio; but I said, when this question was up before, that I should be willing to admit Kansas or Oregon, or any other free state, or any other slave state, upon that fraction which entitles South Carolina to a representative; but the fraction must be ascertained. You must know what the population is, and to ascertain it you are to do precisely what the Constitution authorizes you to do—have a census of the people taken.

This question is to have a very important bearing upon the next presidential contest—this precise question in reference to the manner in which you are to dispose of the territory of Kansas. The senator from Michigan [Mr. Chandler], the other day, gave us notice that the Republican party was going to carry the elections of 1860. Of that he was

very confident. Whether he is to prove a true or a false prophet I shall not undertake to say; but I content myself with the hope that, if his party shall succeed in the presidential election, it will succeed for the vindication of principles. I am equally confident with the honorable senator that the party, of which I am a member, will succeed in the contest of 1860; and, if it does, I want its success to be a success of principles, and not of men. However others may feel, I, at least, am no spoilsman. I would rather settle one sound principle in a presidential contest than secure all the patronage of all the presidents who have ever been elected to or retired from the office. The spoils of office, to the people whom I represent, are as sounding brass and tinkling cymbal. They want principle—they want the vindication of great national, sound principles. That vindication is necessary to the maintenance of their rights in the Union. Without it they cannot live for a year, scarcely for an hour. Therefore it is that I express the hope that, if the Republican party succeed, they may succeed upon a principle; and if we succeed, I want our success to be the vindication of a principle. I neither want to cheat nor to be cheated in the great contest that is to come off in 1860; and as this precise question, which we are now discussing, is to have a most important bearing on that election, I choose to give my opinions not only upon the main question, but upon some of the questions arising out of it collaterally.

I say, sir, I neither want to cheat nor to be cheated, and therefore it is that I am free to state to gentlemen where I stand, and where the people whom I represent stand, and then I shall be very glad to hear from other gentlemen as to where they stand.

Mr. President, the Supreme Court of the United States decided, in the celebrated Dred Scott case, that slaves were property, and that slaveholders had the same right to carry their slave property to the territories that any other citizen from any other state, had to carry any other kind of property. The venerable Chief Justice declared further, that the whole duty of this government towards slave property was to protect it. It therefore stands as the judicial exposition of the Constitution under which we live, that slaves are property; that we have the right to take them to the territories, and have them protected after we get them there. If the decision means anything at all, it means that. Now, sir, by protection, if the word be not a cheat and delusion, we understand *adequate* protection, *sufficient* protection.

Mr. CHANDLER. Will the senator permit me to ask him a question?

Mr. BROWN. Yes, sir.

Mr. CHANDLER. I wish to ask the senator from Mississippi, whether, if slaves are property under the Constitution, he does not deem that they are protected wherever that Constitution exists, in states as well as in territories?

Mr. BROWN. I will come to that. They are protected; but I will show the senator that the mere naked Constitution does not afford that adequate protection which the nature and description of the property requires. The Constitution of itself, unaided by legislation, can no more protect slave property than it will protect any other species of property. Your ships upon the high seas are entitled to protection under the Constitution; but you aid your Constitution by statutory enactments, and, without that aid, the protection would not be efficient.

or effective. What I claim, and what the Southern States will claim, upon this question, I will state in the spirit of the utmost frankness.

The judicial decision being such as I have described it, we shall claim for our slave property protection in the territories. As I said before, by protection, we mean adequate protection—protection suited to the nature and description of property to be protected. We all know that a law which would protect inanimate property, would not in all cases, be sufficient to protect animate property; that is, a law which might give very adequate and sufficient protection to a wagon, might not give the same sort of protection to a horse. Then, if you superadd to the animate property the power of reason, your law again must be adapted to that kind of property. Now, the slave partakes of all of these qualities, the inanimate, the animate, and, adding the power of reason, your law must be adapted to the nature of the thing. I mean to be understood on this question. The Constitution never gave us rights and denied us the means of protecting and defending those rights. The Supreme Court having decided that we have the right to carry our slaves into the territories, and necessarily to have them protected after we get them there, they virtually decided that we have a right to call upon somebody to give us that protection, and to make it adequate, to suit it to the nature, character, and description of the property to be protected.

Now, sir, upon whom are we to call? According to the doctrine of non-intervention, our first call is upon the territorial legislature. I should, therefore, go to the territorial legislature of Kansas, for instance, and say: "Here is my slave property; I demand for it protection, adequate and sufficient protection; protection suited to the nature, character, and description of the property." If the territorial legislature refuse, then what am I to do? Am I, at that point, to abandon my rights, rights guarantied to me by the Constitution, by the Constitution as expounded by the Supreme Court? Am I, because Congress has chosen to adopt what it pleases to term a party compromise, to abandon my constitutional rights? No, sir; when that territorial legislature refuses protection for my slave property, I mean to come to Congress, and this will be my speech to you: "Senators, this territorial legislature is your creature. You breathed into it existence; it could not live an hour but under the sunshine of your approval; I come to tell you that your creature is not obeying the Constitution; that your creature is denying to me rights guarantied to me by the sacred charter of our liberties, as expounded by the highest judicial tribunal in the land; your creature denies me protection for my slave property; I come to ask you, the master, whether you will grant me that protection;" and I am curious to know, in view of the approaching contest, what response I am to have to that speech. I know perfectly well that the territorial legislature of Kansas will deny protection for my property. However, or by what influence prompted to make the declaration, they will declare, as they have within the last three weeks, that they will not only afford no protection, but that they will withdraw protection, as far as they can, and substitute unfriendly legislation in its stead. Is it expected of me and my people that we are to fold this injustice to our bosoms, and cherish it becomes it comes stamped, "accept this, or break up the Democratic party."

I ask northern gentlemen whether they would be quite content, under

the same sort of compromise between conflicting elements in party, to have their right to call upon this government to protect their mercantile marine frittered away. Your ships go out upon the high seas, they are assaulted by enemies, attacked by pirates, and what do you do? If the law be insufficient, you come to Congress and invoke its aid. When you ask that, would you be content, senators from the North, to be told, "we have agreed to non-intervention on this question; we cannot give you any protection." You would say, as I say to-day, "Senators, the obligation is imposed upon you; not by a party compromise, but by the Constitution of your country, to protect this property, and you must do it. So I say in reference to slavery in the territories; the obligation is upon Congress: the Supreme Court has already decided that we are entitled to protection. The territorial legislature, I repeat it again, which denies it to us, is your creature; you made it, and you can unmake it. It lives upon your breath; it exists by your forbearance; and I, for one, am not content to be thus compromised out of my constitutional rights—rights secured to me by my forefathers, and guaranteed by the decision of the Supreme Court of the United States. I agreed to non-intervention; but I never agreed, after we had established rights by the decision of the Supreme Court, we were to be deprived of those rights by a congressional compromise. If, as the Supreme Court has decided, the obligation is upon you to protect my property, no agreement among politicians or parties can discharge you from that obligation.

I have heard it said, Mr. President, that when we come here with a bill asking protection for our slave property in the territories, the dominant party of the North will take the other side of the proposition, and abolish slavery in the territories. Impotent threat! Impotent appeal to cowardly fears! Have you any higher right to abolish slavery, because I ask protection for it, than you would have if I asked nothing? Does the mere fact of my coming and asking for my constitutional rights open the door to you to destroy my rights? Suppose the senator from Massachusetts, who represents a very important commercial interest, a very important commercial marine, should come and ask you to amend and fortify your laws in reference to the coastwise trade; and should tell you that there were pirates in the Gulf, seizing his ships, plundering the cargo, and murdering the crews, scuttling the vessels; and suppose he came with a bill asking protection; I want to know if that would confer upon you any right to turn pirate yourselves, scuttle his ship, murder the crew, and steal the cargo? No, sir. If it were a case fairly stated and honestly fortified, you would say, "the obligation is upon us to give adequate and sufficient protection to this property, and we will do it by the naval and military power of the government;" and have I, sir, less right to demand protection for my slave property in the territories? and ought I to be content to take less? If I come and ask you to discharge your constitutional obligation, can you any more turn pirate in my case than you could turn pirate in the case of the senator from Massachusetts? The obligation to protect is one thing; the power to destroy is altogether a different thing. I say, again, the threat that, if we come and demand protection for our slave property, you will take the converse of the proposition, and pass anti-slavery laws, passes me by as the idle wind. It is an impotent threat; and it appeals to cowardice and the meanest passions of the southern people.



I give you warning now, that if Kansas legislate in a spirit of hostility to slavery, the state which I represent, and, in my opinion, a vast majority of the southern people, will come to Congress, and demand of you, in obedience to the written Constitution as expounded by the illustrious men who adorn the supreme bench of the United States, that you annul their legislation, and substitute instead laws giving adequate and sufficient protection to slave property. When you have done that, you will have discharged your duty, and your whole duty; and, when you do less, you are derelict in your duty, under the Constitution of the United States.

When we came into this Union, Mr. President, we came as equals. Mine was not one of the original states; but the act which admits her, admits her on a footing of equality with the original states. Therefore, she stands in the Union to-day, claiming all the rights, all the privileges, all the immunities, which belong to any one of the sisterhood; and, much as I honor her, I would never plant my foot on her soil again, so help me God, if she consented to take less than that.

We ask nothing which we are not willing to give. We ask nothing that we are not willing to yield. Come and demand protection for your property, upon the high seas or in the territories, and I shall be ready to give it; not with stinted measure, but I will give you that sort of protection which will secure you in the peaceable, quiet, and happy enjoyment of your property. When I come as an equal, and demand the same thing, I want to know whether you will measure to me that equal justice for which, I tell you, I have always been ready, and am still ready, and shall remain ready to mete out to you.

I hope that on these points I am understood. I do not wish to weary the Senate with a long speech on this or any other question. I know how speedily the hours fly, and how impatient the Senate is to transact its business; but this, I repeat again, is an element which must enter into the next presidential contest; you cannot keep it out; and before we enter on the threshold of that contest, it is right for all who feel as I do, that they neither want to cheat nor be cheated—to understand where they are. I think I understand the position of the senator from Illinois [Mr. Douglas], and I dissent from it. If I understand him, he thinks that a territorial legislature may, by non-action, or by unfriendly action, rightfully exclude slavery. I do not think so. But if territorial legislation is to be the end of legislation, he is right. If your doctrine of non-intervention shall be carried to the extent of allowing a territorial legislature, by non-action or unfriendly action, to annul a decision of the Supreme Court, then I say to the Senate and to the world that the senator from Illinois is right; by non-action, by unfriendly action within the limitations of constitutional power, the territorial legislature can exclude slavery. But it is a question of power; not of right. What I want to know is, whether you will interpose against power and in favor of right; or whether you will stand by, dissenting in words from the senator from Illinois, and yet, for all practical purposes, sustaining him by refusing to interpose your authority to overthrow the unconstitutional and tyrannical acts of your creature—the territorial legislature. The senator thinks the legislature has the right, by non-action or unfriendly action, to exclude me, with my slaves. You tell me you do not think so. But what matters

it to me what you think, if you will do nothing to secure me in my rights? If the territorial legislature refuses to act, will you act? If it pass unfriendly acts, will you pass friendly? If it pass laws hostile to slavery, will you annul them, and substitute laws favoring slavery in their stead? If you cannot give affirmative answers to these questions, I care not a button for the difference between you and the senator from Illinois. We have a right of protection for our slave property in the territories. The Constitution, as expounded by the Supreme Court, awards it. We demand it; and we mean to have it.

I have already said that the Constitution, unaided by legislation, gives us the *right* to protection, but it does not give us the protection itself. It does not give us the power to punish those who trespass on our property. It does not give us the power to vindicate it in any manner, shape, or form. It gives us rights, but they are naked rights; and, until they are supported by legislation, they amount to nothing but naked rights. Non-action goes a great way to exclude slave property from a territory—further, perhaps, than to exclude any other species of property; and yet it is true that no property can exist without laws to protect it. The Constitution may give the right, but the law must give the remedy.

But, sir, I admit, as I have done on former occasions; I admit, as I did in the House of Representatives, and, I think, in the Senate, that the legislative power, wherever it may be lodged, must necessarily regulate the relations between master and slave. Now, the precise point at which the regulating power must stop, is not very easily defined. And then we must all admit that the power of taxation must be in the legislature. At what point the power shall be exercised so as to become unconstitutional, would be very difficult for a court to determine. Then, I say, that legislating in an unfriendly spirit upon the point of taxation, and upon the power of regulating the relations between master and slave, added to non-action—non-favorable action I mean—slavery would be as effectually excluded as if they had said in so many words, “if you bring your slave here, we will set him free.”

I do not want to be misunderstood. If the legislature may tax, at what point will the taxing power become unconstitutional? If it may regulate, when shall it stop? If it refuses to act, how will you force it to act? These thoughts suggest to my mind a concurrence with the senator from Illinois, that a territorial legislature has the power, not the right, to exclude slavery, and therefore my question: when it exercises its power without the right, what will you do? The senator says he will do nothing. Other senators from the North—what will you do?

I do not care to elaborate the ideas that crowd on my mind. I do not care to run off into the collateral idea of the government exercising its power to regulate commerce, and doing it in such a way as to break down the whole shipping interest at the North. You have a clear and distinct right to regulate commerce. At what point your exercise of that power would become unconstitutional, it would be a very difficult matter for a court to determine. So it is on the other side. I say that the senator from Illinois is right to a certain extent; but he is wrong when he comes to another point, and that is, that under the doctrine of non-intervention, non-action on the part of the territorial legislature, or unfriendly legislation, may drive us from the territories, and we are without a remedy. I understand that to be his position, and if so, I

dissent from it *is toto*. We have a remedy. That remedy I have before indicated; but, as I want to impress it on the minds of my northern friends, I repeat it. The remedy is, by an appeal to Congress; by telling you "this creature of yours denies us our rights, refuses to give us protection for our property, and we come to you, the masters and the creators, and ask you to wipe this thing out of existence or force it to obey the Constitution of the country."

I understand from the senator from Illinois, that when I make that appeal—that appeal which I and my people will make—he will deny it. I understand him, and I dissent from him. And now, sir, I should like to know of other senators from the North whether I understand them. What will be your response, senators? Will you respond favorably or unfavorably to the inquiry? When we come and demand that you interpose and force your creature to do us justice, will you stand by us or will you stand against us? Will you stand by the senator from Illinois, or will you stand by me? Non-action on your part will be more terrible to me than non-action on the part of the territorial legislature. What I and my people shall ask is action; positive, unqualified action. Our understanding of the doctrine of non-intervention was, that you were not to intervene against us, but I never understood that we could have any compromise or understanding here which could release Congress from an obligation imposed on it by the Constitution of the United States. If the obligation is upon you, and that it is I appeal to the opinions of your illustrious judges, then how are you to escape? You may refuse to act, you may refuse to discharge the obligation; but still it is upon you, and no agreements not to intervene, I care not by whom they may have been made or who may have yielded to them, can release you from them. I want to know where we all stand, because I can see, and do see, that if the territorial legislature refuses to protect my property, and I come and complain to you that it does so refuse, and you turn a deaf ear to my complaint, then there is no difference between you and the senator, who says in advance, in so many words, that he will not respond favorably to my complaint. Indeed, I have more respect for a senator who says right out—"I will do nothing," than for one who would delude me and my people with hopes never to be realized.

Mr. President, I may be asked what I would do in the event that my appeal for congressional protection turns out futile? I am prepared to tell you what I would do; but I am not prepared to tell you what the South would do. On this point I do not speak for the South; but I speak for that portion of the southern people who understand the question as I understand it. I will tell you what they and I will do. I will tell you more, what I will advise my people to do. At the very instant when you deny to us rights guaranteed by the Constitution, as expounded by the Supreme Court, and do it by the mere force of numbers, my mind will be forced irresistibly to the conclusion that the Constitution is a failure, and the Union a despotism. If I cannot obtain the rights guaranteed to me and my people under the Constitution, as expounded by the Supreme Court, then, sir, I am prepared to retire from the concern.

Mr. CLARK. Will the honorable senator allow me to ask him one question?

Mr. BROWN. Certainly.

Mr. CLARK. I have often heard it said by southern gentlemen that they would retire from the Union, go out of it. I want to inquire of that gentleman, where is the way, and how he would go?

Mr. BROWN. When we make up our minds to go, we will find the way. We will make it so plain that, if the senator and his abolition friends want to pursue us, they will be able to follow the trail. We shall not sneak out of the concern; but, throwing our banner to the breeze, we will march out like men, leaving such a trace behind as that our enemies may pursue us if they have the courage to do so.

Now, I suppose, Mr. President, I shall be charged with making extraordinary demands, and then declaring that, if they were not yielded, we would dissolve the Union. I mean no such thing. I simply demand that which belongs to me and my people under the Constitution, as expounded, I repeat again and again, by the Supreme Court. There is nothing extraordinary in that. In this connection, I have declared, time and time again, that I would yield to similar appeals coming from any other quarter. I then ask gentlemen if there is anything extraordinary in the demand?

Mr. PUGH. Will the senator permit me to ask him what his demand is? I wish to hear it.

Mr. BROWN. I wish my friend had listened to me. I am reluctant to repeat, and cannot do it even at his solicitation.

Mr. President, I have not said, if we do not get our constitutional rights, we will dissolve the Union. I have said, when our constitutional rights are denied us, we *ought* to retire from the Union. True manhood requires it. Why should we remain in? Why should we remain one hour in the Union after the Union denies us rights guarantied by the Constitution? What brought us into it, but to seek and give protection; and if you are going to convert the Union into a masked battery from behind which to make war on me and my property, in the name of all the gods at once, why should I not retire from it? The ordinary animal instincts, to say nothing of human reason, would dictate that course. Would not the veriest wild beast fly from a concern if he found it making war on him? You tell us constantly that this Union is to be used for the destruction of slave property. Your great leader and champion on the other side told us at Rochester, this last fall, that we were to be all free or all slave; all Republican, I suppose, or all Cossack; and yet we are told by gentlemen on the other side of the chamber, in this debate, that they contemplate no attack on slavery in the states. I know that that declaration is not founded in sincerity; I know that you do contemplate attacking slavery in the states. The senator from New York [Mr. Seward], in his Rochester speech, forshadowed the policy of his party. When he speaks, the whole party speaks. He speaks not for himself; but he speaks for more than half a million of followers. When Napoleon issued his orders, it was never necessary to inquire what the army thought. The army thought and did as Napoleon thought and told them to do. When the senator from New York speaks, he speaks for the Republican party. Other gentlemen may dissent if they please. They may say we do not agree to this. So Napoleon's field marshals may have said, "we think the order is bad, but we obey it;" and they dared not do otherwise. So with you. When your great Napoleon points out the way, you have to follow it; you dare not disobey. You may grumble and growl, and

say you dissent, and throw obstacles in the way, and get deposed for doing so; but in the end you will have to fall into the line and march after the banner of the great Napoleon of your party. I thank the senator from New York, not for the sentiments of the speech, for those I most heartily, and from the inmost recess of my soul, despise, but I thank him for the manliness displayed in making the speech. He spoke out that which he and his followers do most honestly feel and think, that slavery is ultimately, through the agency of the federal government, to be overthrown in all the Southern States. That is the issue we have to meet if the Union lasts, and no honest man ought to disguise it.

And seeing this, those of us who are for the hour on watch should ill discharge our duty if we did not sound the alarm that danger was approaching. Surrounded by difficulties and dangers of this sort, I do not want to stumble into the presidential contest of 1860 without knowing where we stand. All this Kansas difficulty could have been avoided if there had been just a very little amount of firmness, and I may say honesty, at Cincinnati. Now, sir, I took the proposition there, borrowed from the report of the senator from Illinois, that no state ought to be admitted into the Union with a less population than ninety-three thousand four hundred and twenty. I offered it, and it was rejected; and that meaningless nonsense put into the platform, which stands there now, that no state ought to be admitted without a *sufficient* population to entitle it to one representative. What is a sufficient population? It all looks well enough on the face of the paper, but when you come to analyze it, it is miserable nonsense. It was not adopted by accident; it was done by design. My proposition, which meant something, which was designed to put the principle of introducing new states on a solid basis, was rejected, and the convention substituted a proposition that new states must have a sufficient population. One man says five thousand is sufficient; another thinks fifty thousand sufficient; and I think nothing less than ninety-three thousand four hundred and twenty sufficient; and when you come to vote on it, you find no two men agreeing. If my proposition had been incorporated into the Democratic platform, we should have stood together now; Kansas would never have applied; because she would have been advertised through the dominant party here, at least, and through the President of our choice, that, until she showed the population, she could not get into the Union. I do not want any more such platforms. I want, in the next presidential election, that we shall know where we are, what we are, and where we stand. I would rather see the Democratic party sunk, never to be resurrected, than to see it successful only that one portion of it might practise a fraud on another. If we agree, then let us stand together like honest men. If we disagree, then let us separate like honest men.

Mr. President, very many other thoughts crowd on my mind in this connection; but, if I am understood, I have said all that I care to say.

Mr. WADE. I wish to remind the senator, before he takes his seat, that I believe he has not answered the question of the senator from Michigan; and as the senator, I believe, is the Napoleon of that side, I wish to understand him also. I want to know whether the same doctrine of protection does not as well apply to a state as to a territory; and if it does not, why not?

Mr. BROWN. That was not the inquiry of the senator from Michigan,

clearly, but I will tell the senator why it does not. I utterly, totally, entirely, persistently, and consistently, repudiate the whole doctrine of squatter sovereignty. By squatter sovereignty I mean territorial sovereignty. I utterly deny that there is any sovereignty in a territory.

Mr. WADE. I understand the senator to contend, that inasmuch as a slave is property in a territory, the owner has a right to be protected in the territory. He says he derives that right from the Constitution of the United States, and the decision of the Supreme Court under that Constitution. That I understand to be the claim. If so, I ask why it does not apply as well to a state as to a territory? What is there in the Constitution, if it is the supreme law of the land, that prevents its operating in a state to the same extent as in a territory?

Mr. BROWN. I hold, Mr. President, that each state is sovereign within its own limits; and that each for itself can establish or abolish slavery for itself.

Mr. WADE. Do I understand the senator that state sovereignty dominates over the Constitution of the United States, in any instance, or can do so?

Mr. BROWN. If the Constitution, in terms, guarantied slavery in the states; in other words, if the states had surrendered to the federal government the power to maintain slavery within their respective limits, then, as a matter of course, the obligation would have been upon Congress to do it; but the extent of the guarantee is not that. The guarantee is, that you shall surrender fugitive slaves.

Mr. WADE. I do not wish to interrupt the senator; but I believe the Dred Scott decision makes no distinction between this right in a state and in a territory; but if it does, I should like to know from any lawyer why it does?

Mr. BROWN. I shall not undertake to discuss that question at large, because it is not involved in the controversy. The Supreme Court were simply dealing with a territory; and I speak of the decision as I find it. No such hypothetical case as that presented by the senator from Ohio has arisen, or probably ever will arise; but if it does, and the Supreme Court think proper to decide it, they will doubtless give sound reasons for the decision one way or the other. It is no business of mine to foreshadow what will be their decision on a point never presented, and never likely to be presented; but, Mr. President, if nobody else wants to interrogate me, I apologize for having consumed nearly three-quarters of an hour of the time of the Senate, when I know that every minute is of vast importance; and I yield the floor.

Mr. DOUGLAS. But the senator from Mississippi says he has a right to protection. The owner of every other species of property may say he has a right to protection. The man dealing in liquors may think that, inasmuch as his stock of liquors is property, he has a right to protection. The man dealing in an inferior breed of cattle, may think he has a right to protection; but the people of the territory may think it is their interest to improve the breed of stock by discrimination against inferior breeds; and hence they may fix a higher rate of taxation on the one than on the other.

Mr. BROWN. The senator from Illinois now makes a point which enables me to illustrate what I mean. I hold that the territorial legislature of Kansas—that being the territory immediately involved in this

discussion—has no right to enact the Maine liquor law. That is an act of sovereignty. It has the right to say that liquors carried into the territory shall be so used as that they shall not corrupt the public morals nor endanger the public safety; but the power of prohibition does not belong to a territorial legislature. So I say in reference to slave property. As I said in my opening remarks this morning, while I demand justice, I will do justice. I hold that a territorial legislature has the right to regulate the relation between master and slave in such a manner that the master shall not permit the slave to endanger the public safety or corrupt the public morals. That is what I mean by the power to regulate; and not seeing the point at which a court could intervene and arrest this power if it were abused, I said it never would, or rarely ever, present a case which we could get before the court and upon which we could demand its judgment. By this I understood the senator from Illinois to mean unfriendly legislation; that in the exercise of its power to regulate the relation between master and slave, it could act with such severity as effectually to exclude slavery as though it were a constitutional inhibition. That is what I meant.

Again, in reply to Mr. PUGH, Mr. BROWN said:—

The senator from Ohio read an extract from a speech of mine, which he seemed to rely upon to sustain him in his position that I was inconsistent to-day with what I had said on a former occasion. When that speech was made, the main point in controversy was as to whether we had the right to carry our slave property to the territories, and have it protected there. To that point I spoke. That point I maintained then, as I maintain to-day; we were willing to submit to the decision of the Supreme Court. We have submitted the question, and it has been decided in our favor. I did not mean to be understood then, nor will I be understood now, that I am willing to submit to the Supreme Court on points which you can never bring before the court. The non-action of the territorial legislature can never be brought before the Supreme Court. Unfriendly legislation within the limitations of the Constitution can never be brought before the Supreme Court. Non-action and that sort of unfriendly legislation, I have maintained to-day, would as effectually exclude us as positive action. Whatever you can get before the Supreme Court fairly and justly, I am willing to submit to them, and abide by their decision; but, of course, I am not willing to be ruled out upon points which you never can get before the court. Suppose the legislature does not act at all, how am I to have my remedy before the Supreme Court? Can I get a *mandamus*? Everybody knows I cannot. That is a form by which I am excluded. Then, suppose they act in an unfriendly spirit within the limitations of the Constitution; how am I to get such a case before the Supreme Court? If they legislate under the taxing power, as I pointed out this morning, and under the power to regulate the relation between master and slave; how am I to get such a case before the Supreme Court? I never can. I never meant to say I would stand only upon the decisions of the Supreme Court. I will stand upon them so far as they are rendered; and I maintain before the senator from Ohio now, that I stand where I stood when I made that speech—upon the decisions of the Supreme Court; but I could not stand upon decisions never rendered, and which never can be rendered.

THE END.



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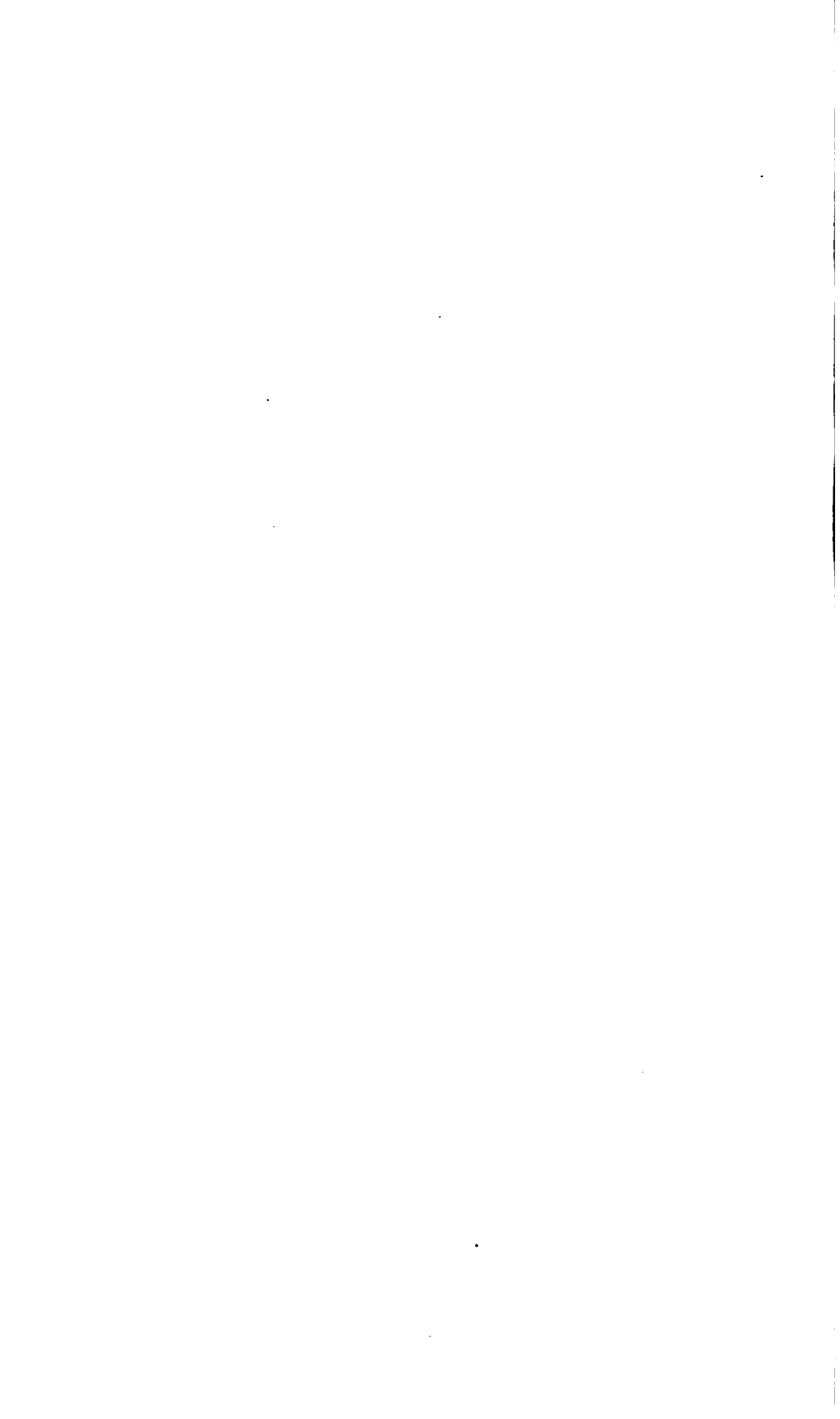
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1971	1972	1973	1974	1975	1976	1977	1978	1979	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036	2037	2038	2039	2040	2041	2042	2043	2044	2045	2046	2047	2048	2049	2050	2051	2052	2053	2054	2055	2056	2057	2058	2059	2060	2061	2062	2063	2064	2065	2066	2067	2068	2069	2070	2071	2072	2073	2074	2075	2076	2077	2078	2079	2080	2081	2082	2083	2084	2085	2086	2087	2088	2089	2090	2091	2092	2093	2094	2095	2096	2097	2098	2099	2100	2101	2102	2103	2104	2105	2106	2107	2108	2109	2110	2111	2112	2113	2114	2115	2116	2117	2118	2119	2120	2121	2122	2123	2124	2125	2126	2127	2128	2129	2130	2131	2132	2133	2134	2135	2136	2137	2138	2139	2140	2141	2142	2143	2144	2145	2146	2147	2148	2149	2150	2151	2152	2153	2154	2155	2156	2157	2158	2159	2160	2161	2162	2163	2164	2165	2166	2167	2168	2169	2170	2171	2172	2173	2174	2175	2176	2177	2178	2179	2180	2181	2182	2183	2184	2185	2186	2187	2188	2189	2190	2191	2192	2193	2194	2195	2196	2197	2198	2199	2200	2201	2202	2203	2204	2205	2206	2207	2208	2209	2210	2211	2212	2213	2214	2215	2216	2217	2218	2219	2220	2221	2222	2223	2224	2225	2226	2227	2228	2229	2230	2231	2232	2233	2234	2235	2236	2237	2238	2239	2240	2241	2242	2243	2244	2245	2246	2247	2248	2249	2250	2251	2252	2253	2254	2255	2256	2257	2258	2259	2260	2261	2262	2263	2264	2265	2266	2267	2268	2269	2270	2271	2272	2273	2274	2275	2276	2277	2278	2279	2280	2281	2282	2283	2284	2285	2286	2287	2288	2289	2290	2291	2292	2293	2294	2295	2296	2297	2298	2299	2300	2301	2302	2303	2304	2305	2306	2307	2308	2309	2310	2311	2312	2313	2314	2315	2316	2317	2318	2319	2320	2321	2322	2323	2324	2325	2326	2327	2328	2329	2330	2331	2332	2333	2334	2335	2336	2337	2338	2339	2340	2341	2342	2343	2344	2345	2346	2347	2348	2349	2350	2351	2352	2353	2354	2355	2356	2357	2358	2359	2360	2361	2362	2363	2364	2365	2366	2367	2368	2369	2370	2371	2372	2373	2374	2375	2376	2377	2378	2379	2380	2381	2382	2383	2384	2385	2386	2387	2388	2389	2390	2391	2392	2393	2394	2395	2396	2397	2398	2399	2400	2401	2402	2403	2404	2405	2406	2407	2408	2409	2410	2411	2412	2413	2414	2415	2416	2417	2418	2419	2420	2421	2422	2423	2424	2
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